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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO  
--oOo--

4042

COORDINATION PROCEEDING ) JCCP No.

SPECIAL TITLE (Rule 1550 (b)) )

In re TOBACCO CASES II )

The People of the State of )  
California, et al., v. Brown & )  
Williamson Tobacco Corp., et al. )  
(SF No. 996781) )

And )

The People of the State of )  
California, et al. v. Philip )  
Morris Incorporated, et al. )  
(LA No. BC 194217) )

DEPOSITION OF  
HEATHER M. STREETS

May 1, 2000

REPORTED BY: CLARE MACY, CSR 5256

1

I N D E X

INDEX OF EXAMINATIONS

EXAMINATION BY MR. LERNER

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I N D E X, cont'd

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EXHIBITS MARKED FOR IDENTIFICATION

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Exhibit No.            Description

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4

262            Defendant's Notice of Taking Deposition

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of the Person Most Knowledgeable at Carol H.  
Williams Advertising and for Request of  
Production of Documents

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263            Defendant's Amended Notice of Taking

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Deposition of the Person Most Knowledgeable at  
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264            California Department of Health Services

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media plan for calendar year 2000

265            Two-page document entitled "California

... 72

11

Department of Health Services, African  
American - Adult Smoking, 2000 Media Plan -  
Revision 1"; Bates Nos. CHW00005552 - 5553

12

13

266            E-mail printout dated March 12, 2000 from

72

14

spriestley to Heather Streets, Subject: FW  
Budget Overview/Worksheet, with attachment;  
Bates Nos. CHW00005634 - 5637

15

267            E-mail printout dated March 6, 2000 from

. 72

16

Valerie Wernick to Colleen Stevens, Subject:  
Media Buy-, with attachments; Bates Nos.  
CHW00005554 - 5560

17

18

268            One-page document entitled "California

... 89

19

Department of Health Services, African  
American - Adult Smoking, 2000 Media Plan -  
Revision 5"

20

269            One-page document entitled "California

... 96

21

Department of Health Services, African  
American - Adult Smoking, 2000 Media Plan  
Revision 5" of better quality than Exhibit 268

22

23

270            E-mail printout dated 20 August 1999 from

97

24

Alison Melody to lwillls@chwadv.com, Subject:  
CDHS Budget; Bates No. CHW004373

25

--oOo--

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO

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(LA No. BC 194217) )

--oOo--

Notice and

subpoena, and on Monday, May 1, 2000, commencing at  
10:30 a.m. thereof, at 1901 Harrison Street, Suite

900,

Oakland, California, before me, CLARE MACY, a

Certified

Shorthand Reporter, personally appeared  
HEATHER M. STREETS

been

called as a witness by the Defendant, who, having

follows:

first duly sworn, was examined and testified as

--oOo--

ALLEN MATKINS, 333 Bush Street, 17th

Floor,

San Francisco, California 94104-2806, represented

by

HENRY LERNER and H. CHRISTIAN L'ORANGE, Attorneys

at

4

Law, appeared as counsel on behalf of the Defendant  
Lorillard Tobacco Company.

FOSTER AND ASSOCIATES, 414 - 13th

Street,

Suite 350, Oakland, California 94612, represented

by

MARK J. ZEMBSCH, Attorney at Law, appeared as

counsel on

behalf of the Deponent.

--oOo--

P R O C E E D I N G S

(Whereupon, Defendant's Exhibit 262  
was marked for identification.)

11 (Whereupon, Defendant's Exhibit 263  
12 was marked for identification.)  
13 EXAMINATION BY MR. LERNER  
14 MR. LERNER: Q. Please state your full  
name.  
15 A. Heather Marian Streets.  
16 Q. Is it Miss Streets or Ms. Streets?  
17 A. Yes.  
18 Q. Ms. Streets, my name is Hank Lerner.  
I'm an  
19 attorney representing Lorillard Tobacco Company in  
two  
20 cases that are pending in San Diego County Superior  
21 Court relating to environmental tobacco smoke or  
22 secondhand smoke.  
23 We've asked for the deposition of a  
person  
24 most knowledgeable from the Carol H. Williams  
Agency in  
25 order to determine what work has been done to  
notify the  
26 California public concerning the risks of  
secondhand  
27 smoke.  
28 Now, have you had an opportunity to talk  
with  
5  
1 Mr. Zembsch concerning the nature of a deposition  
and  
2 what's going to be going on today?  
3 A. Briefly, yeah.  
4 Q. I will just kind of put some things on  
the  
5 record so we can firm up what the ground rules are  
for  
6 today.  
7 First, you're under oath here today as  
though  
8 you were giving testimony in court. Your testimony  
is  
9 being transcribed by the court reporter. She will  
be  
10 taking down the questions and the answers and any  
11 objections that may be put on the record by Mr.  
Zembsch.  
12 You'll have an opportunity to read and  
review  
13 the transcript and make changes or corrections that  
you  
14 think are appropriate.  
15 A. Okay.  
16 Q. However, I need to caution you that if  
you do  
17 make any changes or corrections, the parties would  
have  
18 an opportunity to comment on those changes or  
19 corrections at the time of trial.  
20 Now, do you understand those ground  
rules?  
21 A. Yes.  
22 Q. There are some just planning things,  
also,

23 that you should be aware of. For one thing, the  
 court  
 24 reporter can't take down a nod of the head or a  
 shake or  
 25 an "uh-huh"?  
 26 A. Okay.  
 27 Q. So it's important to answer all the  
 questions  
 28 audibly. In addition, we should try to avoid  
 talking at  
  
 6  
 1 the same time because that makes it more difficult  
 for  
 2 the court reporter.  
 3 A. Okay.  
 4 Q. And finally, I may not have the  
 familiarity  
 5 that you do or that someone in your position in  
 your job  
 6 would concerning the subject matter of the  
 deposition  
 7 today. As a result, if I don't ask a question that  
 8 makes any sense to you or you don't understand it,  
 I'd  
 9 appreciate that rather than answer it, you ask me  
 -- you  
 10 tell me that you don't understand it.  
 11 A. Okay.  
 12 Q. And ask me to rephrase it. Is that  
 okay?  
 13 A. Yes.  
 14 Q. We marked as Exhibit 262 a copy of  
 15 Defendant's Notice of Taking Deposition of the  
 Person  
 16 Most Knowledgeable at Carol H. Williams Advertising  
 and  
 17 for request for production of documents.  
 18 I'm showing you Exhibit 262. Have you  
 seen  
 19 that document before?  
 20 A. No.  
 21 Q. Would you please turn to the third page  
 of  
 22 the document, which is called Deposition Subpoena.  
 Have  
 23 you seen this document before?  
 24 A. No.  
 25 Q. Would you turn to the fifth page of the  
 26 document, which is called Exhibit A, which  
 describes in  
 27 paragraph 1 certain subject matters for testimony  
 28 pursuant to the subpoena. Have you seen this  
 document  
  
 7  
 1 before, this particular --  
 2 A. No.  
 3 Q. Do you have an understanding of what a  
 person  
 4 most -- the person most knowledgeable for Carol H.  
 5 Williams is being called upon to testify about  
 today?

6 MR. ZEMBSCH: I'm going to object. It  
calls  
7 for a legal conclusion, but she can answer.  
8 MR. LERNER: Q. Let me add one other  
ground  
9 rule. Mr. Zembsch is entitled to put objections on  
the  
10 record for purposes of potentially a later ruling  
by the  
11 court.  
12 A. Okay.  
13 Q. If he makes one of those objections,  
then  
14 you're still under an obligation to go forward and  
15 answer.  
16 A. Okay.  
17 Q. If he instructs you not to answer  
pursuant to  
18 another kind of objection, then of course, I assume  
19 you'll be following your attorney's instructions?  
20 A. Okay.  
21 Can you restate the question?  
22 Q. Sure. Do you have an understanding of  
the  
23 subject matter the person most knowledgeable at  
Carol H.  
24 Williams was called upon to testify to today?  
25 MR. ZEMBSCH: Same objection.  
26 THE WITNESS: Minimal understanding.  
27 MR. LERNER: Q. What's your  
understanding?  
28 MR. ZEMBSCH: Same objection.

8  
only  
1 THE WITNESS: Because I -- because I've  
2 been working on this account actively for about a  
month,  
3 I would call that minimal understanding.  
4 MR. LERNER: Q. Maybe I'm not making  
myself  
5 clear. Did you have an understanding of what it  
was  
6 that was going to be the subject of the deposition  
7 today?  
8 A. Yes.  
9 Q. What was that?  
10 A. That it was a deposition between a  
tobacco  
11 company and the California Department of Health  
12 Services.  
13 MR. ZEMBSCH: If this helps, let me just  
--  
14 This line of questioning, I would just have the  
same  
15 objection run through it.  
16 MR. LERNER: That's fine.  
17 Q. Maybe we can get at it this way: Can  
you  
18 tell me what your educational background is through  
19 college?  
20 A. I went to UCLA as an economics major. I  
went

21 to Golden Gate University and received an MBA in  
22 marketing.  
23 Q. When did you receive your -- Did you  
receive  
24 a degree from UCLA?  
25 A. Yes.  
26 Q. B.A.?  
27 A. Yes.  
28 Q. What year?

9  
1 A. In 1987.  
2 Q. And what year did you receive your MBA  
in  
3 marketing at Golden Gate?  
4 A. 1993.  
5 Q. What year did you graduate from high  
school?  
6 A. In 1983.  
7 Q. What was your first job after you  
received  
8 your degree from UCLA?  
9 A. I was an inventory manager at  
10 Williams-Sonoma.  
11 Q. When did you take that position?  
12 A. I think it was 1988.  
13 Q. And how long did you stay at  
Williams-Sonoma?  
14 A. Approximately two and a half years.  
15 Q. So until about the middle of 1990?  
16 A. I think so.  
17 Q. Was that a full-time position?  
18 A. Yes.  
19 Q. Did you remain as an inventory manager  
during  
20 your entire employment at Williams-Sonoma?  
21 A. Yes. I was promoted, but it was within  
the  
22 same department.  
23 Q. So what were your duties as inventory  
24 manager?  
25 A. To work with the buying office, the  
store  
26 managers and the warehouse to insure that all  
inventory  
27 needed in the stores was sent to them based on  
their  
28 needs.

10  
1 Q. What was your next position after you  
left  
2 Williams-Sonoma?  
3 A. After I left Williams-Sonoma, that's  
when I  
4 went back to graduate school, and I worked  
part-time at  
5 San Francisco Educational Services as an  
educational  
6 counselor and mentor.  
7 Q. What was the beginning and ending dates  
of  
8 your employment with San Francisco Educational

Services?

9 A. I think it was 1991, I think, through '93.

10 It's kind of hard to remember without having

11 a resume in front of me.

12 Q. Did your work at Williams-Sonoma include any

13 marketing or advertising responsibilities?

14 A. No.

15 Q. And your work at San Francisco Educational

16 Services was entirely as a counselor?

17 A. Correct.

18 Q. What was your next position of employment

19 after you left San Francisco Educational Services?

20 A. I worked at Charles Schwab as a new product

21 develop -- I worked in new product development as a product manager.

22 Q. When did you begin working at Charles Schwab?

24 A. I believe it was sometime in 1993.

25 Q. Where was your office located when you started with Schwab?

26 A. In San Francisco.

27 Q. Did your employment with Schwab come to an

11

1 end at some point?

2 A. Yes.

3 Q. When was that?

4 A. It was either '96 or '97.

5 Q. How long did you serve as a product manager?

6 A. The entire period. I started as an assistant

7 product manager. Actually -- I'm sorry. I started as a

8 coordinator, became an assistant product manager, and

9 then became a product manager.

10 Q. Each of those three positions was in the new

11 product development area?

12 A. Yes.

13 Q. What types of products or what products did

14 you work on?

15 A. It's now called Schwab Advisor Source.

16 Q. What is the nature of that product?

17 A. Because Charles Schwab does not give investment advice, they devised a way to match independent investment advisors with clients to

18 pair them up to give them the tools and information they need

20 to make investment decisions without Schwab

21 becoming the provider of this information.

22 Q. What was your next position after --

23



strike

24 that.

25 Did you have any marketing or  
advertising

26 responsibilities while you were with Charles  
Schwab?

27 A. Yes.

28 Q. What were your marketing and advertising

12

1 responsibilities there?

2 A. Marketing. The way new product  
development

3 works is that you're responsible for developing the  
4 product, so writing the strategy; also, developing

the  
5 launch strategy, and the product was launched on a  
6 market-by-market basis; writing creative  
strategies;

7 developing marketing and advertising materials,  
8 including collateral materials as well as print  
9 advertising that we did as well.

10 Q. When did you begin having  
responsibilities

11 pertaining to marketing and advertising at Charles  
12 Schwab?

13 A. From the moment I was hired.

14 Q. Can you estimate what percentage of your  
time

15 while you were with Charles Schwab was spent on  
16 marketing and advertising particular activities?

17 A. I would say about 75 percent.

18 Q. Did your marketing and advertising  
activities

19 pertain to any particular demographic markets while  
you

20 were with Schwab?

21 A. Yes.

22 Q. What demographic markets did your  
marketing

23 and advertising activities at Schwab concern?

24 A. People who have a minimum of \$100,000 or  
more

25 to invest, limited investment experience. I would  
say

26 those are the main two demographics.

27 Q. Was the potential market existing Schwab  
28 customers or potential Schwab customers, also?

13

1 A. Existing -- primarily existing Schwab  
2 customers.

3 Q. You mentioned that this advertising and  
4 marketing strategy was launched market by market?

5 A. Yes.

6 Q. Did your work in marketing and  
advertising

7 concern the California market?

8 A. Yes.

9 Q. When did your work involve the  
California

10 market?

11 A. From the beginning of my employment.

12 Q. And during what period of time were you  
13 concerned with the California market?  
14 A. My entire tenure at Schwab.  
15 Q. Did your work at Schwab involve any  
marketing  
16 or advertising directed primarily at any ethnic  
17 communities?  
18 A. No.  
19 Q. Or at the African American communities?  
20 A. No.  
21 Q. When was your next position of  
employment  
22 after you left Charles Schwab?  
23 A. I worked for a consulting firm called  
Towers  
24 Perrin, P-E-R-R-I-N.  
25 Q. Located in San Francisco?  
26 A. Yes.  
27 Q. At 333 Bush Street?  
28 A. Yes.

14  
1 Q. On the 16th floor?  
2 A. Yes.  
3 (Discussion off the record)  
4 MR. LERNER: Q. When did you begin  
working  
5 at Towers Perrin?  
6 A. 1996, I believe.  
7 Q. And when did you leave Towers Perrin?  
8 A. The following year. I was there for  
9 approximately -- I think it was 11 months.  
10 Q. What was your position at Towers Perrin  
when  
11 you began there?  
12 A. I was a freelance compensation analyst.  
13 Q. Before I leave Schwab, when you began at  
14 Schwab, who was your supervisor?  
15 A. A woman by the name of Chris Sheridan.  
16 Q. Did you report to somebody at Schwab  
after  
17 Ms. Sheridan?  
18 A. A woman by the name of Jeanne Lipson.  
19 Q. And did you report to anyone after  
20 Ms. Lipson?  
21 A. No.  
22 Q. So what were the dates that you reported  
to  
23 Chris Sheridan?  
24 A. I reported to Chris for approximately  
two  
25 years, and then I think I reported to Jeanne Lipson  
for  
26 maybe six to eight months.  
27 Q. Who did you report to at Towers Perrin?  
28 A. I'm blanking out on Richard's last name.

Can  
15  
1 you give me a minute to remember that one?  
2 Q. Sure, of course.  
3 MR. ZEMBSCH: Let me just interject  
here,

4 too. Counsel, in his admonitions or his  
instructions,  
5 did not go over the subject of guess. He's not  
entitled  
6 to a guess, but he's certainly entitled to a best  
7 estimate. So if you can't recall his last name,  
you  
8 can't recall his last name.  
9 MR. LERNER: Q. We don't want you to  
10 speculate. Counsel's advise is appropriate. So if  
you  
11 can't remember something, tell us you can't, and  
we'll  
12 try to see what we could do to either refresh your  
13 recollection or otherwise find the information.  
14 A. Okay.  
15 Q. At least we know his first name is  
Richard.  
16 A. Yes.  
17 Q. If you can remember, we'll fill in the  
blank  
18 there.  
19 A. Okay.  
20 Q. What type of projects did you work on as  
a  
21 freelance compensation analyst?  
22 A. I primarily worked on pulling  
information for  
23 reports used by senior analysts as well as the  
24 consultants in regards to compensation for senior  
level  
25 executives, being C.E.O.'s, C.O.O.'s and the like.  
26 Q. So the general subject matter was  
executive  
27 compensation?  
28 A. Correct.

16

1 Q. What was your next position after Towers  
2 Perrin?  
3 A. I worked at a marketing agency, which is  
now  
4 called Miller Huber Relationship Marketing.  
5 Q. When did you begin working at that firm?  
6 A. I believe 1997.  
7 Q. What was the name at the time you began  
8 working there?  
9 A. It's changed names two or three times.

But I

10 believe when I first started it was Miller Kadanoff  
11 Direct and Interactive. K-A-D-A-N-O-F-F.  
12 Q. Where was the firm located?  
13 A. It's in San Francisco on DeHaro Street.  
14 Q. When did you leave Miller Huber?  
15 A. In October of 1998.  
16 Q. What were your duties at Miller Huber?  
17 A. I began as an agency marketing manager  
18 primarily working on new business as well as PR,  
and  
19 then I became an account executive working  
primarily on  
20 the Levi Strauss account.  
21 Q. What's the nature of the business of

Miller

22 Huber?

23 A. Miller Huber, in essence, is a direct  
24 marketing and interactive marketing agency.

25 Q. How does that differ from an advertising  
26 agency, if you know?

27 A. The primary difference is that Miller

Huber

28 does not do print or outdoor or television  
advertising;

17

1 they primarily concentrate on interactive  
advertising,

2 so developing websites, building banners, as well  
as

3 direct marketing through direct mail pieces. That  
would  
4 be the main difference.

5 Q. So their focus is on direct mail and  
Internet  
6 advertising?

7 A. Correct.

8 Q. How long did you work in the position of  
9 agency marketing manager?

10 A. As I recall, it was eight months.

11 Q. What were your duties as agency  
marketing  
12 manager?

13 A. Developing press releases, working with  
14 potential new clients, developing new business  
15 presentations. Those were the main  
responsibilities.

16 Q. What were your responsibilities when you  
17 served as account executive?

18 A. I handled the day-to-day response for  
the

19 Levi's brand men's and women's as well as girls'  
brands,

20 was the day-to-day client contact, and developed a  
21 number of direct mail pieces for each of those

brands.

22 Q. How long did you serve as account  
executive?

23 A. For approximately four months.

24 Q. So you were with Miller Huber for  
25 approximately one year?

26 A. Correct.

27 Q. Did your work at Miller Huber concern  
any

28 particular markets?

18

1 MR. ZEMBSCH: Objection, vague. But if  
you  
2 know what that term means.

3 THE WITNESS: As it relates to Levi's,  
yes.

4 The men's and women's brands we concentrated on, I  
5 believe, people 12 to -- I'm sorry. Strike that.  
6 Young adults, I think 18 to, like, mid

20s.

7 The girls' brand, I think the target was 9 to maybe

12  
8 years old. I'm not quite sure -- or I don't  
remember.  
9 MR. LERNER: Q. Were these markets  
focused  
10 in any particular geographic area?  
11 A. Yes.  
12 Q. Which ones?  
13 A. California. And I don't remember the  
other  
14 states.  
15 Q. Was any of your work at Miller Huber  
directed  
16 to any ethnic or minority communities?  
17 A. No.  
18 Q. What was your next position after you  
left  
19 Miller Huber?  
20 A. I came to Carol H. Williams Advertising  
in  
21 November of 199 -- excuse me, December of 1998 as a  
22 freelance account executive.  
23 Q. How did you first hear of the Carol H.  
24 Williams Advertising Agency?  
25 A. Through a number of different sources:  
One,  
26 Floyd Miller, who is the owner of Miller Huber. I  
also  
27 heard of it through word of mouth.  
28 Q. Had you been previously acquainted with  
  
19  
1 Carol H. Williams or anyone else who worked here?  
2 MR. ZEMBSCH: Object in terms of scope.  
Are  
3 you talking about prior to December of '98?  
4 MR. LERNER: Fair enough.  
5 Q. Prior to December 1998, were you  
acquainted  
6 with Carol H. Williams?  
7 A. No.  
8 Q. Prior to December of 1998, were you  
9 acquainted with anyone else who you knew worked at  
the  
10 Carol H. Williams Agency?  
11 A. No.  
12 Q. Can you describe for me the  
circumstances by  
13 which you came to work at Carol H. Williams?  
14 A. I was interested in pursuing a career in  
15 ethnic advertising. And after having a  
conversation  
16 with Floyd Miller, he had suggested that I contact  
17 someone at Carol H. Williams.  
18 Q. Had you had any experience in ethnic  
19 advertising apart from the work you described on  
the  
20 Levi Strauss account at Miller Huber?  
21 A. No.  
22 Q. Who did you contact after Mr. Miller  
made  
23 that suggestion? Did you contact someone at Carol  
H.

24 Williams?  
25 A. Yes. He put me in contact with a woman  
by  
26 the name of Gail Gunnick, who at the time was the  
27 agency -- I think her title was media director.  
28 Q. Did you interview for a position at  
Carol H.

20  
1 Williams?  
2 A. Yes.  
3 Q. When did you interview for a position?  
4 A. In November of 1998.  
5 Q. Was there an open position for which you  
were  
6 interviewing?  
7 A. As far as I knew, yes.  
8 Q. What was the position?  
9 A. Account executive.  
10 Q. Did that account executive position  
pertain  
11 to any particular accounts at that time?  
12 A. While I was interviewing? I'm sorry.  
13 Restate the question.  
14 Q. Sure. When you were interviewing for  
the  
15 account executive position, did you have an  
16 understanding as to whether that position  
encompassed  
17 any particular accounts?  
18 A. I was told that I would be working on  
19 multiple accounts, but I don't recall if the  
accounts  
20 that I would be working on were actually stated.  
21 Q. When did you officially begin work at  
22 Carol H. Williams?  
23 A. I started as a freelancer in December of  
'98.  
24 My freelance tenure lasted for approximately a  
month,  
25 and I became a full-time employee in January of  
1999.  
26 I'm sorry. I'm sorry. I think I'm getting my  
dates  
27 mixed up because I've been here approximately two  
and a  
28 half years. So that was '97, and I became a  
full-time

21  
1 employee in January of '98. I apologize.  
2 Q. Thanks. No problem.  
3 During the one month that you were a  
4 freelancer, what accounts did you work on?  
5 A. I worked on U.C. Davis. I believe Bank  
of  
6 America.  
7 MR. ZEMBSCH: Let me just confer with my  
8 client for a moment here.  
9 Do you want to step outside for a  
second?  
10 (Whereupon, the witness and her counsel  
exit

11 and reenter the deposition room.)  
12 MR. LERNER: Q. I realize we had a  
little  
13 discrepancy on dates for some of your earlier  
positions,  
14 so we probably ought to go back and clarify.  
15 So you began work at Carol H. Williams  
in  
16 December 1997?  
17 A. Correct.  
18 Q. And then you left Miller Huber at that  
time  
19 in December 1997?  
20 A. I think it was November of that year.  
21 Q. Okay. So you worked at Miller Huber for  
22 approximately one year?  
23 A. Yes.  
24 Q. Beginning at the end of 1996?  
25 A. Correct.  
26 Everything can be pushed back a year  
27 essentially.  
28 Q. And at Towers Perrin, you worked for  
  
22  
1 approximately 11 months at Towers Perrin during the  
2 period from late 1995 until late 1996?  
3 A. Correct.  
4 Q. So your Schwab employment ended in late  
1995  
5 then?  
6 A. Yes.  
7 Q. You mentioned you reported to Ms.  
Sheridan  
8 for two years and Ms. Lipson for about six to eight  
9 months. So would it be fair to say you worked at  
Schwab  
10 for two and a half to three years?  
11 A. Yes.  
12 Q. I think that clears it up.  
13 You mentioned in December of 1997 you  
worked  
14 on the U.C. Davis account and the Bank of America  
15 account. Were there other accounts you worked on  
as a  
16 freelancer?  
17 A. Not that I recall.  
18 Q. When you became a full-time account  
executive  
19 at Carol H. Williams in January of 1998, what  
accounts  
20 were assigned to you?  
21 A. Those same two accounts. I also worked  
on --  
22 I believe at that time I worked on Black Infant  
Health.  
23 You have to give me a moment to remember all of the  
24 accounts that I have worked on.  
25 I worked on Pacific Bell.  
26 I also worked on Southwestern Bell.  
27 And for, I think -- Actually, I think  
that's  
28 all of them.

January 1 Q. Okay. As an account executive in  
2 1998, to whom did you report?  
3 A. I reported to Nancy Cech. And that's  
4 C-E-C-H.  
5 Q. What was Ms. Cech's position?  
6 A. When I first started at the agency, she  
was  
7 an account supervisor, and she was then promoted to  
8 account director.  
9 Q. And since arriving -- I take it the five  
10 accounts you described, or you identified: U.C.  
Davis,  
11 Bank of America, Black Infant Health, Pacific Bell  
and  
12 Southwestern Bell were assigned to you at the time  
you  
13 arrived in January of 1998?  
14 A. With the exception of Southwestern Bell.  
15 That account came a few months later.  
16 Q. Now, do you continue to have  
responsibility  
17 for the U.C. Davis account?  
18 A. No, I don't.  
19 Q. When did you stop having responsibility  
for  
20 the U.C. Davis account?  
21 A. I don't know the exact date, but I think  
I  
22 worked on that account for approximately three to  
four  
23 months.  
24 Q. Until approximately April of 1998?  
25 A. It's possible, but I can't be sure the  
date.  
26 Q. During what period of time did you have  
27 responsibility for the Bank of America account?  
28 A. Up until approximately March of last  
year.

1 Q. During what period of time did you have  
2 responsibility for the Black Infant Health account?  
3 A. For approximately two to three months,  
but  
4 then the account was given back to me at the end of  
5 1999, and I kept that account until mid April of  
this  
6 year.  
7 Q. And during what period of time did you  
have  
8 responsibility for the Pacific Bell account?  
9 A. I currently still work on Pacific Bell.  
10 Q. So you've worked on Pacific Bell  
continuously  
11 since you became an account executive?  
12 A. Correct.  
13 Q. And you mentioned you started  
Southwestern  
14 Bell about a few months after you became an account  
15 executive?  
16 A. Correct.



17 Q. What's your best estimate of when you  
began  
18 working on Southwestern Bell?  
19 A. It might have been March or April of  
1998.  
20 Q. Do you still have responsibility for  
21 Southwestern Bell?  
22 A. Yes.  
23 Q. Have you received -- Have you been  
assigned  
24 responsibility for any other accounts since  
becoming an  
25 account executive?  
26 A. Yes. One is a petroleum client who I'm  
not  
27 allowed to mention.  
28 Q. When were you assigned responsibility  
for  
25  
1 that client?  
2 A. I believe it was August of 1999.  
3 Q. And do you still have responsibility for  
that  
4 client?  
5 A. Yes.  
6 Q. Were you assigned responsibility for any  
7 other clients?  
8 A. Yes. California Department of Health  
9 Services I worked on for approximately one month.  
And  
10 I'm trying to remember what month that was. I  
believe  
11 it might have been April or May of '98 to the best  
of my  
12 knowledge.  
13 Q. Did you work on the California  
Department of  
14 Health Services account at any other point?  
15 A. Yes. I am currently working on it, and  
I've  
16 had the account since April of this year.  
17 Q. What date was the account assigned to  
you?  
18 A. I don't remember the exact date. I  
believe  
19 it was early April.  
20 MR. ZEMBSCH: That's of 2000?  
21 THE WITNESS: Yes, correct.  
22 MR. LERNER: Q. What was the subject  
matter  
23 of your work on the California Department of Health  
24 Services account during the one month that you  
worked on  
25 it in April or May of 1998?  
26 A. I'm sorry. Did you ask the scope of  
work?  
27 Q. Yes.  
28 A. It was -- From what I recall, I worked  
-- was  
26  
1 working with the client. We were developing a

campaign  
2 that was related to secondhand smoke, and it was  
called  
3 the Hard Facts campaign.  
4 Q. When you say worked with the client,  
with  
5 whom specifically do you mean as the client?  
6 A. Her name is Colleen Stevens.  
7 Q. Colleen Stevens is the media director of  
the  
8 Tobacco Control section?  
9 A. I'm not sure her exact title.  
10 Q. Did you work with -- but you -- Did you  
11 understand that she was with the California  
Department  
12 of Health Services Tobacco Control section?  
13 A. Yes.  
14 Q. Did you work with any other individuals  
from  
15 the Tobacco Control section -- strike that.  
16 Did you work with any other individuals  
from  
17 the California Department of Health Services during  
that  
18 one-month period on the secondhand smoke campaign?  
19 A. I had minimal contact with a man by the  
name  
20 of Kurt Fowler.  
21 Q. What was Mr. Fowler's position?  
22 A. I don't know.  
23 Q. Was the Hard Facts campaign a creative  
24 project that you were working on at that time?  
25 A. Yes.  
26 Q. Were any advertisements developed for  
that  
27 campaign?  
28 A. Concepts were developed.

27

1 Q. But nothing was produced?  
2 A. Correct.  
3 Q. By that, just for the record, I mean  
that no  
4 advertisements were actually produced?  
5 A. Correct.  
6 Q. Is there some reason that you're aware  
of  
7 that no advertisements for the Hard Facts campaign  
were  
8 produced?  
9 MR. ZEMBSCH: Objection. Foundation.  
If you  
10 are aware, then you can respond to him.  
11 THE WITNESS: I don't know why they  
weren't  
12 produced. But from my experience on working on the  
13 campaign, they were approved by the client, and it  
was  
14 my understanding that they were awaiting approval  
by the  
15 governor's office.  
16 MR. LERNER: Q. Were the ads -- what  
type of

17 media were these ad concepts?  
18 A. Print.  
19 Q. All print?  
20 A. Yes.  
21 Q. How many?  
22 A. Well, since they were in concept form, I  
23 believe there were possibly four or five different  
ads  
24 in each concept group.  
25 Q. How many ads total?  
26 A. I believe there were three different  
27 concepts, so probably seven to ten total.  
28 Q. And all the concepts for ads pertained  
to  
28  
1 secondhand smoke?  
2 A. Yes.  
3 Q. What was the proposed market -- In  
general,  
4 what was the proposed market for the seven to ten  
ad  
5 concepts you mentioned?  
6 A. African Americans residing in  
California.  
7 Q. And any particular age groups?  
8 A. As I recall, it was pretty broad. 18 to  
54,  
9 I believe.  
10 Q. Were the ads aimed at males or females?  
11 MR. ZEMBSCH: Objection, compound.  
12 MR. LERNER: I'll accept that.  
13 MR. ZEMBSCH: In other words, you know,  
you  
14 can either make him break it down or, in your  
response,  
15 go to both areas of that.  
16 THE WITNESS: Well -- and that was the  
case.  
17 There were some that were skewed more toward males.  
And  
18 there were, as I recall, a few that were skewed  
toward  
19 women.  
20 MR. LERNER: Q. Were any of the ad  
concepts  
21 directed at preteens or teens?  
22 A. Not that I recall.  
23 Q. When you were working on the secondhand  
24 smoke -- I'm sorry, on the Hard Facts campaign, to  
whom  
25 did you report within Carol H. Williams?  
26 A. Nancy Cech.  
27 Q. What responsibility did Nancy Cech have  
at  
28 that time for the California Department of Health  
29  
1 Services account?  
2 A. At that time, she was an --  
3 MR. ZEMBSCH: I'm just going to object  
to  
4 foundation. Go ahead, if you know.

5 THE WITNESS: Well, I don't know if I  
can  
6 really answer the question. At that time she was  
an  
7 account director, so she supervised myself.  
8 MR. LERNER: Q. Who was the account  
9 executive at that time for the California  
Department of  
10 Health Services account?  
11 A. At the time that I was working?  
12 Q. On the Hard Facts campaign.  
13 A. I was.  
14 Q. So you served as the account executive  
for  
15 the California Department of Health Services  
account for  
16 one month in April or May '98?  
17 A. Approximately one month.  
18 Q. Who was the account executive  
immediately  
19 before you had the account in April '98?  
20 (Sotto voce discussion between the  
witness  
21 and counsel)  
22 MR. ZEMBSCH: I'm going to object on  
23 foundation, assumes facts not in evidence, but go  
ahead  
24 and allow the witness to respond.  
25 MR. LERNER: I'll ask her another  
question.  
26 Q. Do you know who the account executive  
was  
27 immediately before you began to work on the Hard  
Facts  
28 campaign?  
  
30  
1 A. There was a woman by the name of  
Danielle  
2 Hawkins who worked on the account, but I'm not sure  
what  
3 time she actually worked on the account, if it was  
-- I  
4 believe she worked on it after I did, but I'm not  
sure  
5 if she worked on it before I did.  
6 Q. Who was the account executive for the --  
or  
7 do you know who the account executive was for the  
8 California Department of Health Services account  
9 immediately after the warmup period during which  
you  
10 worked on the Hard Facts campaign?  
11 MR. ZEMBSCH: Do you understand that?  
Are  
12 you talking about immediately after? That's the  
13 question?  
14 MR. LERNER: (Nods head)  
15 THE WITNESS: I would have to give the  
same  
16 response. Danielle Hawkins worked on the account.  
And  
17 as I said, I'm not sure if she worked on it prior

to me  
was  
Facts  
work  
31  
with  
were  
room.  
agencies,  
of  
H.  
Hard  
meeting?  
what  
occurred at  
32  
during  
campaign?  
3  
4

18 working on it and then immediately after, or if it  
19 just after. But she did work on the account.  
20 MR. LERNER: Q. You mentioned that you  
21 worked with Colleen Stevens on developing the Hard  
22 campaign?  
23 A. Yes.  
24 Q. Did you meet with Ms. Stevens?  
25 A. Yes.  
26 Q. How many times did you meet with her to  
27 on the Hard Facts campaign?  
28 A. In person, I'm assuming.

1 Q. Yes.  
2 A. Once that I recall.  
3 Q. And was anyone else present when you met  
4 her?  
5 A. Yes.  
6 Q. Who else?  
7 A. Kurt Fowler was in the room, and there  
8 approximately six to eight other people in the  
9 Some were agency representatives from other  
10 and some were CDHS employees. But I don't know any  
11 the names.  
12 Q. Where did the meeting occur?  
13 A. At CDHS in Sacramento.  
14 Q. Was there anyone else present from Carol  
15 Williams Agency?  
16 A. No.  
17 Q. Were any other agencies working on the  
18 Facts campaign based on your observations at that  
19 meeting?  
20 A. No.  
21 Q. Was there a written agenda for the  
22 A. Not that I recall.  
23 Q. Do you recall any memos that summarized  
24 occurred at the meeting?  
25 A. No.  
26 Q. Did you report to anyone on what  
27 that meeting?  
28 A. Yes, to Nancy Cech.

1 Q. And the meeting, I take it, occurred  
2 April or May 1998 when you were working on the  
3 A. Yes.  
4 Q. You mentioned that there was some

creative  
H. 5 developed for the Hard Facts campaign by the Carol  
6 Williams Agency; is that right?  
7 A. Yes.  
8 Q. Who worked on that creative?  
9 A. I believe it was an art director by the  
name  
10 of Thomas Watts Walton.  
11 MR. ZEMBSCH: For the record, I'm just  
going  
12 to object, foundation. Go ahead.  
13 MR. LERNER: Q. Did you work with  
14 Mr. Walton?  
15 A. Yes.  
16 Q. Did you discuss this creative with him?  
17 A. Yes.  
18 Q. Do you have reason to think that this  
19 creative was done by anyone other than Mr. Walton?  
20 A. No.  
21 MR. LERNER: Off the record.  
22 (Discussion off the record)  
23 MR. LERNER: Q. You said you resumed  
24 responsibility as account executive for the  
California  
25 Department of Health Services account last month;  
is  
26 that right?  
27 A. Yes.  
28 Q. Who was the account executive for the

33  
1 California Department of Health Services account  
2 immediately before that?  
3 (Sotto voce discussion between the  
witness  
4 and counsel)  
5 THE WITNESS: Prior to me having the  
account,  
6 there is a woman by the name of Shirley Priestley,  
who  
7 to my understanding worked on it for one month.  
There  
8 was another woman by the name of Lee Wills, who  
also  
9 worked on the account prior to Ms. Priestley  
working on  
10 it.  
11 MR. LERNER: Q. Were you acquainted  
with  
12 Shirley Priestley?  
13 A. Yes.  
14 Q. Did you talk to Shirley Priestley about  
the  
15 California Department of Health Services account?  
16 A. Yes.  
17 Q. Was there any kind of transition  
arranged  
18 from her to you?  
19 A. Yes.  
20 Q. What was done by way of transition?  
21 A. We had a transitional meeting where we  
talked

22 about active jobs. And we also went through any  
23 creative that was currently waiting approval either  
by  
24 the client or by the governor's office.  
25 Q. Did you have any discussion with Shirley  
26 Priestley concerning any media campaigns?  
27 A. Other than what Carol H. Williams was  
working  
28 on or --

34  
1 Q. I take it back.  
2 Was there any media running at the time  
you  
3 had this transition meeting with Shirley Priestley  
that  
4 was for the California Department of Health  
Services  
5 account?

6 A. Yes.  
7 Q. What was running at the time you had the  
8 transition meeting with Shirley Priestley?  
9 A. To my knowledge, it was a campaign

called  
10 Daddy's Eyes, Mama's Lungs.  
11 Q. What type of media is that campaign?  
12 A. It's radio and outdoor.  
13 Q. Is that campaign currently running in  
the  
14 media?

15 A. For -- Yes.  
16 Q. Is there any other ad campaigns that are  
17 presently running for the California Department of  
18 Health Services account?  
19 (Sotto voce discussion between the

witness  
20 and counsel)  
21 MR. ZEMBSCH: I'm going to object to the  
term  
22 "currently running." It's vague and ambiguous.  
23 MR. LERNER: Q. Is there some other ads

for  
24 the California Department of Health Services that  
25 Carol H. Williams has placed in the media that is  
26 currently running?  
27 (Sotto voce discussion between the  
witness  
28 and counsel)

35  
1 A. No.  
2 Q. Is Daddy's Eyes, Mama's Lungs an ad that  
3 pertains to secondhand smoke?  
4 A. Yes.  
5 Q. When did Daddy's Eyes, Mama's Lungs  
first  
6 begin to appear in the media?  
7 A. I don't know.  
8 Q. For how much longer is Daddy's Eyes,  
Mama's  
9 Lungs presently scheduled to run in the media?  
10 A. No more than one month.  
11 Q. Have any further media buys for Daddy's

Eyes,  
12 Mama's Lungs been arranged at the present time?  
13 A. No.  
14 MR. ZEMBSCH: Let's take a five-minute  
break  
15 before the noon hour, if that's all right.  
16 MR. LERNER: We can do it right now.  
That  
17 would be fine, sure.  
18 (Recess taken from 11:37 to 11:55 a.m.)  
19 MR. LERNER: Q. Ms. Streets, to prepare  
for  
20 your deposition today, did you do any investigation  
of  
21 the work that Carol H. Williams has done on the  
22 California Department of Health Services account?  
23 A. No.  
24 Q. Did you speak -- In preparing for your  
25 deposition today, did you speak to anyone at the  
26 Carol H. Williams Agency concerning the work that's  
been  
27 done on the California Department of Health  
Services  
28 account?

36  
1 A. No.  
2 Q. In that connection, did you review any  
3 documents to prepare for your testimony today?  
4 A. No.  
5 Q. Were you involved in any way in  
collecting  
6 documents that were being produced pursuant to the  
7 deposition subpoena that's attached to Exhibit 262?  
8 A. Yes.  
9 Q. What did you do in regard to collection  
of  
10 documents?  
11 A. I went down to our archives down in the  
12 basement here and basically looked for any boxes  
labeled  
13 "CDHS" and pulled out -- looked in the boxes and  
pulled  
14 out any relevant files and then passed them on to  
the  
15 person who made copies of them.  
16 Q. Did anyone assist you in reviewing the  
17 archives of the CDHS documents to respond to the  
18 subpoena for documents?  
19 A. Yes.  
20 Q. Who was that?  
21 A. Her name is Joy Allen.  
22 Q. That's Ms. Allen's position?  
23 A. She's an assistant account executive.  
24 Q. On the California Department of Health  
25 Services account?  
26 A. Yes.  
27 Q. Did anyone else assist you?  
28 A. No.

37  
1 Q. Other than your counsel, did you have  
any



2 discussions with anyone concerning your deposition?  
3 A. No.  
4 Q. Was there someone at Carol H. Williams  
Agency  
5 who selected you to appear today at this  
deposition?  
6 A. I don't know.  
7 Q. How did you learn -- How were you  
assigned to  
8 appear at this deposition today?  
9 A. Yes. Carol Williams told me that I  
would be  
10 appearing.  
11 Q. Did you have any conversation with  
12 Ms. Williams concerning your selection to appear  
today?  
13 A. No.  
14 Q. When did Ms. Williams tell you that you  
were  
15 to appear?  
16 A. I would say maybe a week or two weeks  
after  
17 the account had been assigned to me.  
18 Q. Can you tell me specifically what was  
said by  
19 Carol Williams and you during that conversation?  
20 A. From what I can recall, she said, "I  
have  
21 some news for you. You are going to be sitting in  
on a  
22 deposition for CDHS."  
23 (Sotto voce discussion between the  
witness  
24 and counsel)  
25 Q. Did she say anything else during that --  
as  
26 part of that statement "I have some news for you"?  
27 MR. ZEMBACH: I'm going to object just  
to the  
28 extent that the question invades the  
attorney-client  
  
38  
1 privilege. I believe counsel was present for this  
2 communication. In fact, I know counsel was present  
for  
3 this communication. So I am going to close off  
this  
4 line.  
5 MR. LERNER: Let me just get that on the  
6 record.  
7 Q. Who was present when Ms. Williams told  
you  
8 you were to appear at the deposition?  
9 A. Michael Foster.  
10 Q. Did you have any conversations with  
Carol  
11 Williams about the deposition that were not in the  
12 presence of counsel?  
13 A. No.  
14 Q. Did you have any conversations with  
anyone  
15 else at the Carol H. Williams Agency about the

16 deposition that were not held in the presence of  
17 counsel?  
18 A. No.  
19 MR. ZEMBSCH: If I can go back and make  
that  
20 objection to the one question that she did respond  
to  
21 regarding what Carol H. Williams said to her.  
22 MR. LERNER: Okay. Again, I have the  
same  
23 objection to the response, which was, "Oh, great."  
24 MR. ZEMBSCH: Okay, thank you.  
25 MR. LERNER: I'll take that. I'll take  
that  
26 objection, also.  
27 MR. ZEMBSCH: Thank you.  
28 And just for the record, by allowing

39  
1 Ms. Streets to respond to that, there was no  
intentional  
2 waiver of the attorney-client privilege. It was --  
that  
3 response was inadvertent.  
4 MR. LERNER: Understood.  
5 Q. So as of this moment, the total amount  
of  
6 time that you have served as the account executive  
for  
7 the California Department of Health Services  
account has  
8 been approximately two months?  
9 A. Less than two months.  
10 Q. Less than two months all together?  
11 A. Yes.  
12 Q. Now, the first time that you served as  
13 account executive for the account --  
14 A. I'm sorry. When you said two months,  
you  
15 were talking about the month that I spent on it  
prior to  
16 me getting it back?  
17 Q. Yes.  
18 A. Yes, approximately two months.  
19 Q. Now, when you served as the account  
executive  
20 at the time of your work on the Hard Facts campaign  
in  
21 April or May 1998, was there some transition or  
process  
22 by which you got up to speed on the account?  
23 MR. ZEMBSCH: I'm sure we're talking  
about  
24 '98, the '98 --  
25 MR. LERNER: Right.  
26 THE WITNESS: I'm not sure. I know I  
spent  
27 some time with Nancy Cech talking about CDHS  
overall,  
28 but I don't recall a transition meeting.

40

1 MR. LERNER: Q. When you say you spent

some  
2 time with Nancy Cech, are you saying you had some  
3 meetings with her?  
4 A. Yes.  
5 Q. And what did you learn in general  
concerning  
6 California Department of Health Services account  
from  
7 Nancy Cech at that time?  
8 A. That the agency charge was to reduce the  
9 effects of secondhand smoke and that we also did  
10 advertising related to cessation and that there was  
a  
11 new campaign that I would work on, being the Hard  
Facts  
12 campaign.  
13 Q. Now, as part of the process of getting  
up to  
14 speed on the California Department of Health  
Services  
15 account at that time, did you review any documents  
or  
16 records at Carol H. Williams Agency?  
17 A. Yes.  
18 Q. What did you review by way of documents  
and  
19 records?  
20 A. I think there was a creative brief that  
was  
21 developed. And actually, that's all that I recall.  
22 Q. Did you review any research at that time  
that  
23 pertained to secondhand smoke? And by that I mean  
any  
24 scientific research.  
25 A. Yes, but I can't recall any particular  
26 documents.  
27 Q. Other than reviewing a creative brief  
and  
28 some documents pertaining to scientific research,  
did  
41  
1 you review any other documents or records at that  
time  
2 that pertained to the California Department of  
Health  
3 Services account?  
4 A. No, not that I recall.  
5 Q. How much time did you spend reviewing  
the  
6 creative brief and the scientific research that you  
7 mentioned?  
8 A. Percentage of time or hours or --  
9 Q. Hours, if you could estimate.  
10 MR. ZEMBSCH: Just to clarify, you're  
talking  
11 about as part of her transition to this account,  
not  
12 once she got on it?  
13 MR. LERNER: Yeah.  
14 THE WITNESS: As part of the transition?  
15 MR. LERNER: Q. As part of the

transition.

16 MR. ZEMBSCH: I think the general  
subject

17 matter is, quote, getting up to speed; is that  
right?

18 MR. LERNER: Exactly.

19 THE WITNESS: I would have to say a few  
20 hours.

21 MR. LERNER: Q. Less than ten?

22 A. Yes.

23 Q. During the period of time that you  
worked on  
24 the Hard Facts campaign in April-May 1998, what  
25 percentage of your time approximately was spent on  
the

26 California Department of Health Services account?

27 A. I would have to say no more than 20  
percent.

28 Q. While you served as account executive  
for the

42

1 California Department of Health Services account at  
that  
2 time in 1998, did you have occasion to review any  
other  
3 documents that you had not seen when you were  
getting up  
4 to speed on the account?

5 MR. ZEMBSCH: Do you understand what  
he's  
6 asking?

7 THE WITNESS: Once I had the account?

8 MR. ZEMBSCH: Right.

9 THE WITNESS: Yes.

10 MR. LERNER: Q. What else did you  
review

11 while you worked on the account?

12 A. There were newspaper clippings that were  
sent  
13 to all the agencies regarding tobacco usage and  
smoking  
14 that I remember reviewing or taking a cursory look  
at.

15 Q. And these newspaper clippings were sent  
by  
16 whom?

17 A. I don't know the person's name.

18 Q. Do you know in what organization the  
person

19 worked?

20 A. I think the person is employed by CDHS.

21 Q. Did you review any focus group research  
as  
22 part of your work as account executive in April-May  
23 1998?

24 A. No.

25 Q. Did you review any media plans at that  
time?

26 A. No.

27 Q. Did you review any documents that may  
have

28 had any information concerning public awareness of

the

43

1 health effects of secondhand smoke?  
2 A. Public awareness. Not that I recall.  
3 Q. Do you have an understanding as to when  
4 Carol H. Williams Agency began to work on the  
California  
5 Department of Health Services account?  
6 A. No.  
7 Q. Have you talked to anyone at Carol H.  
8 Williams Agency concerning the history of the  
agency's  
9 work on the California Department of Health  
Services  
10 account?  
11 A. No.  
12 Q. Have you talked to anyone at the  
California  
13 Department of Health Services concerning the  
history of  
14 the work by the Carol H. Williams Agency on the  
account?  
15 A. No.  
16 Q. Have you ever talked with anyone from  
Asher &  
17 Partners?  
18 A. No.  
19 I'm sorry. In relation to how long  
Carol H.  
20 Williams has worked on the account or just in  
general?  
21 Q. I'm sorry. Just in general.  
22 A. Have I spoken to someone at Asher? Yes.  
23 Q. When did you speak with anyone at Asher  
&  
24 Partners?  
25 A. During the one month that I worked on  
it, the  
26 April-May period, from before as well as currently.  
27 Q. Who did you speak with during the 1998  
time  
28 frame?

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1 A. The one person's name that I do recall  
is  
2 Lienanh. It's -- I could spell it, but I can't say  
it.  
3 I think it's Thantrong, T-H-A-N-G-T-R-O-N-G, one  
word.  
4 L-I-E-H-N-A-N or something like that.  
5 Q. What did you speak with Mr. Thantrong  
about?  
6 A. It's Miss.  
7 Q. Miss Thantrong, excuse me.  
8 A. I recall speaking to her regarding the  
Hard  
9 Facts campaign.  
10 Q. And concerning the creative for the  
campaign?  
11 A. Yes.  
12 Q. Did you have conversations with anyone

else  
13 from Asher & Partners during the 1998 time frame  
14 concerning the account?  
15 A. No. I met someone at the one meeting  
that I  
16 attended. There was an Asher representative there.  
I  
17 don't recall that person's name.  
18 Q. Does Christine Steele ring a bell?  
19 A. Yes.  
20 Q. That was who?  
21 A. I don't know if that's because I've seen  
her  
22 name printed somewhere, if I actually met her. I  
don't  
23 recall.  
24 Q. As part of the transition process when  
you  
25 resumed responsibility for the California  
Department of  
26 Health Services account last month, did you review  
any  
27 documents, Carol H. Williams documents?  
28 A. Yes.

45  
1 Q. What did you review?  
2 A. Creative concepts that were awaiting  
approval  
3 by either the client or the governor's office.  
4 Q. Did you review any media plans?  
5 A. Yes.  
6 Q. What media plans did you review?  
7 A. Just the Carol H. Williams media plan,  
the  
8 current media plan.  
9 Q. The current media plan?  
10 A. Yes.  
11 Q. Did you review any budgets?  
12 A. No.  
13 Q. Did you review any focus group research?  
14 A. No.  
15 Q. Did you review any documents pertaining  
to  
16 public awareness of the health effects of  
secondhand  
17 smoke?  
18 A. No.  
19 Q. Did you review any scientific research  
20 pertaining to secondhand smoke?  
21 A. No.  
22 Q. Did you review any correspondence?  
23 A. Yes.  
24 Q. What did you review in that regard?  
25 A. There were some production estimates  
that  
26 were forwarded to the client with a fax cover note.  
27 Q. And these were production estimates for  
28 the -- well, production estimates for what, please?

46  
1 A. From what I recall, the extension of the  
2 Mama's Eyes, Daddy's Lungs (sic) campaign. And

those  
3 are all the ones I recall.  
4 Q. Do you know of any reason why no other  
media  
5 buys have been arranged at the present time for  
Daddy's  
6 Eyes, Mama's Lungs?  
7 A. Because there is new creative that has  
been  
8 approved by both the client and the governor's  
office.  
9 Q. That has been produced?  
10 A. It's in the process of being produced.  
11 Q. And is this new creative pertaining to  
12 secondhand smoke?  
13 A. Yes.  
14 Q. Is any of the new creative among the ad  
15 concepts that were developed for the Hard Facts  
16 campaign?  
17 A. No.  
18 Q. When was the creative that was in  
production  
19 developed?  
20 A. I don't know.  
21 Q. When did the production on those  
creative  
22 concepts begin?  
23 A. Last week.  
24 Q. How many ads pertaining to secondhand  
smoke  
25 are being -- are in the process of being produced?  
26 A. It's two concepts.  
27 Q. What are the names of the concepts?  
28 A. Not in My House and No Smoking Section.

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1 Q. For what media are these concepts being  
2 produced?  
3 A. Outdoor. And there's also an existing  
Not in  
4 My House radio script that we're also using, but  
5 primarily -- I'm sorry. And then it's also being  
6 translated into print. Outdoor, radio and print.  
7 Q. Has any work been done to arrange media  
buys  
8 for these concepts when production is completed?  
9 A. Yes.  
10 Q. What work has been done to arrange media  
11 buys?  
12 A. Using the existing media plan, once the  
13 creative is created, it will be rotated into the  
buy.  
14 Q. So the new creative will in effect  
substitute  
15 for existing creative as part of the buy in the  
current  
16 media plan?  
17 A. Yes.  
18 MR. LERNER: Let's go off the record.  
19 (Discussion off the record)  
20 MR. ZEMBSCH: Just further clarifying,  
there  
21 were two questions that Ms. Streets answered

regarding a

22 conversation she had in the presence of counsel.  
We've  
23 already -- I've already objected to them. If we  
could,  
24 I'd actually like to move to strike those two  
questions  
25 and two responses, if there's no objection from  
counsel.

26 MR. LERNER: I have no objection.

27 MR. ZEMBSCH: Okay. Thanks.

28 (Noon recess taken from 12:19 to 1:26  
p.m.)

48

1 MR. LERNER: Q. Ms. Streets, can you  
2 estimate what percentage of your time has been  
spent on  
3 the California Department of Health Services  
account  
4 since you were assigned to work on it again last  
month?

5 A. I'd say at least 50 percent.

6 Q. What other accounts have you also been  
7 working on in the past month?

8 A. Pacific Bell. Southwestern Bell. The  
9 petroleum company that I'm not allowed to mention.

I'm

10 missing one. I have had so many accounts.

11 Actually, there was another account that

I

12 gave up because I was working on CDHS. So that's  
13 primarily all of them.

14 Oh. And I'm also working on Silicon  
15 Graphics.

16 Q. So when you say at least 50 percent, how  
much  
17 more than 50 percent are you working on the  
account?

18 A. I'd say between 50 and 70 percent.

19 Q. And you anticipate continuing to devote  
that

20 percentage of your time to the California  
Department of

21 Health Services account should you retain the  
Pacific

22 Bell, Southwestern Bell, petroleum company and  
Silicon

23 Graphics accounts as well?

24 A. No.

25 Q. What do you anticipate your normal time  
26 commitment on the California Department of Health  
27 Services account will be?

28 A. I would probably say 30 percent.

49

1 Q. Was there something that took place last  
2 month that increased the percentage of your time  
devoted

3 to go from 30 percent to between 50 and 70 percent?

4 A. Yes. It was the approval of the two  
concepts

5 that I mentioned earlier. And moving from concept



stage  
6 to production has increased my involvement.  
7 Q. You mentioned that Thomas Watts Walton  
worked  
8 on creative for the Hard Facts campaign; is that  
right?  
9 A. Yes.  
10 Q. Who else worked on creative on the Hard  
Facts  
11 campaign from Carol H. Williams?  
12 A. To my knowledge, Thomas was the only art  
13 director on the account that I worked with for Hard  
14 Facts.  
15 Q. Okay. Do you know how long Joy Allen  
has  
16 been assistant ad executive on the California  
Department  
17 of Health Services account?  
18 A. Yes. Joy has been here -- This is her  
third  
19 week at the agency.  
20 Q. And does she report to you?  
21 A. Yes.  
22 Q. Do you know whether Joy had any  
experience  
23 working on tobacco control education prior to her  
24 arrival at Carol H. Williams Agency?  
25 A. I think so, but I don't know to what  
extent.  
26 Q. What is it you understand that she did  
in  
27 that regard before her arrival here?  
28 A. I understand that she worked at an  
agency  
50  
1 that had an anti-smoking account. But I'm drawing  
a  
2 blank on the name.  
3 Q. Where was that agency located? Where do  
you  
4 understand that agency was located?  
5 A. Boston.  
6 MR. L'ORANGE: Arnold Communications?  
7 THE WITNESS: Yes.  
8 MR. LERNER: Thank you.  
9 Q. Did you interview Ms. Allen for her  
position  
10 here?  
11 A. Yes.  
12 Q. And did you review her resume before she  
was  
13 hired here?  
14 A. I think I might have seen a copy of it,  
but  
15 I'm not sure.  
16 Q. How long do you understand that she  
worked at  
17 Arnold Communications?  
18 A. That I don't remember.  
19 Q. Do you recall specifically what types of  
20 experience or -- What types of experience do you  
21 understand that she had with regard to an

anti-smoking

22 account at Arnold Communications?

23 A. I'm not quite sure in terms of the

24 anti-smoking act, but she was, from what I

understand,

25 an assistant account executive at the agency or

maybe an

26 account coordinator.

27 Q. In preparing for your deposition, apart

from

28 counsel and people within Carol H. Williams, did

you

51

1 speak to anyone concerning the deposition?

2 A. No.

3 Q. Does anyone other than Joy Allen report

to

4 you?

5 A. No.

6 Q. Does Joy Allen have any responsibility

for

7 the California Department of Health Services

account

8 other than what she did in helping you collect

9 documents?

10 A. She's helping me coordinate efforts

between

11 getting materials from the agency to the client on

the

12 two new concepts that we're developing currently.

13 Q. What's your understanding as to when

14 Lee Wills worked on the California Department of

Health

15 Services account?

16 A. The only thing I know is that she worked

on

17 the account prior to Shirley Priestley working on

it,

18 but her length of time on the account I don't know.

19 Q. Have you heard anything as to how long

she

20 may have -- that would give you some impression as

to

21 how long she worked on the account?

22 A. No.

23 Q. Have you heard the name of anyone you

24 understand working on the account before Lee Wills?

25 A. As I mentioned earlier, Danielle Hawkins

26 worked on the account as well. But I don't know

the

27 length of time that she worked on it either.

28 Q. To your knowledge, has Carol H. Williams

52

1 worked on the account?

2 MR. ZEMBSCH: Objection. Vague,

ambiguous.

3 THE WITNESS: "Worked on" in terms of --

I

4 mean, can you be a little more specific?

5 MR. LERNER: Q. To your knowledge, has

6 Carol H. Williams had any responsibility for

dealing  
with  
all  
media  
Services  
media  
I'm  
director?  
he's  
53  
think  
sure  
with  
devising  
I've  
existing  
buys

7 with the California Department of Health Services  
8 respect to the tobacco control ad campaigns?  
9 A. Direct contact or -- Well, she approves  
10 creative that the agency develops.  
11 Q. Carol H. Williams has approved creative  
12 you've worked on?  
13 A. Yes.  
14 Q. Do you know any other work that Carol H.  
15 Williams has done with regard to the California  
16 Department of Health Services account?  
17 A. No.  
18 Q. To your knowledge, who has worked on  
19 plans for the California Department of Health  
20 account in the past?  
21 A. I believe Gail Gunnick. Our current  
22 director is Anthony Welch. And in between the time  
23 between Gail leaving and Anthony coming on board,  
24 not sure who was responsible for the account.  
25 Q. When did Gail Gunnick leave the agency?  
26 A. Sometime in 1999.  
27 Q. When did Anthony Welch become media  
28 A. Anthony has been here about -- I think  
1 been here about six months. And I'm sorry. I  
2 Gail might have left in 1998, but I'm not quite  
3 exactly when.  
4 There was also a woman by the name of  
5 Jennifer Usher, who was a media supervisor, who was  
6 here, but I'm not sure if she worked on CDHS.  
7 Q. Have you worked with Mr. Welch on the  
8 California Department of Health Services account?  
9 A. Yes.  
10 Q. What are Mr. Welch's responsibilities  
11 regard to the account?  
12 A. As director, he is responsible for  
13 all media plans that are developed for all of our  
14 clients; with respect to CDHS, from the time that  
15 worked on the account, basically revising the  
16 media plan.  
17 Q. Is there a person within the Carol H.  
18 Williams Agency who has responsibility for media  
19 for the California Department of Health Services  
20 account?  
21 A. That would be Anthony Welch.  
22 Q. To your knowledge, has Carol H. Williams  
23 Agency used an outside contractor to place media

24 advertisements?  
 25 MR. ZEMBSCH: In this CDHS --  
 26 MR. LERNER: Yeah, thanks.  
 27 THE WITNESS: I don't know.  
 28 MR. LERNER: Q. Is the agency using  
 such a  
 54  
 1 service now?  
 2 A. For this client?  
 3 Q. For this client.  
 4 A. I believe that the agency is doing the  
 5 buying, I believe.  
 6 Q. To your knowledge, has the agency done  
 all  
 7 the buying in the past for the California  
 Department of  
 8 Health Services account?  
 9 A. That I don't know.  
 10 Q. You don't know of any instances where  
 the  
 11 agency has not done the buying for ad creative  
 developed  
 12 by Carol H. Williams Agency?  
 13 A. For CDHS?  
 14 Q. Yes.  
 15 A. No, I don't know.  
 16 Q. To whom do you presently report?  
 17 A. As of Friday, it was a woman by the name  
 of  
 18 Lynn Holman, H-O-L-M-A-N. But Friday was her last  
 day.  
 19 Q. What was Lynn Holman's position?  
 20 A. She was an account director.  
 21 Q. And has someone replaced Lynn Holman?  
 22 A. As of yet, no.  
 23 Q. Is there someone who is scheduled to  
 replace  
 24 her?  
 25 A. I don't know.  
 26 Q. So at this time the position is vacant?  
 27 A. Yes.  
 28 Q. So who did Ms. Holman report to?  
 55  
 1 A. I believe she reported to Carol  
 Williams.  
 2 MR. ZEMBSCH: I would just object.  
 3 Foundation.  
 4 MR. LERNER: Q. Have you ever seen an  
 org.  
 5 chart, an organizational chart, for the Carol H.  
 6 Williams Agency?  
 7 A. Not recently, no.  
 8 Q. What were Ms. Holman's responsibilities  
 with  
 9 regard to the California Department of Health  
 Services  
 10 account while you reported to her?  
 11 A. Can I ask you a question?  
 12 (Sotto voce discussion between the  
 witness  
 13 and counsel)

14 I'm sorry. Lynn didn't have any  
15 responsibilities in terms of working with this  
client.  
16 She didn't have any day-to-day contact with the  
client,  
17 at least while I've been on the account.  
18 Q. Prior to today, did someone supervise  
your  
19 work on the California Department of Health  
Services  
20 account?  
21 MR. ZEMBSCH: Objection to the term  
vague --  
22 I'm sorry. Vague as to the term "supervise," but  
if you  
23 know what he's asking.  
24 THE WITNESS: No.  
25 MR. LERNER: Q. Did you make any  
reports to  
26 anyone concerning your work on the California  
Department  
27 of Health Services account over the last month?  
28 A. Yes.

56

1 Q. To whom did you make such reports?  
2 A. Reports went to Carol Williams -- the  
client,  
3 Carol Williams, Anthony Welch, and Ray Clemons.  
4 Q. Why did you report to Carol Williams?  
5 A. Because all conference reports that I  
do, I  
6 automatically cc Carol Williams.  
7 Q. Did you prepare a conference report  
8 concerning any meetings with the client?  
9 A. Including phone meetings or  
face-to-face?  
10 Q. Any kind.  
11 A. Yes.  
12 Q. Did you have any face-to-face meetings  
with  
13 the California Department of Health Services within  
the  
14 last month?  
15 A. No.  
16 Q. Did you have any telephone conversations  
with  
17 anyone from there within the last month?  
18 A. Yes.  
19 Q. Whom did you speak with?  
20 A. I've spoken with Colleen Stevens.  
21 Q. When was that conversation?  
22 A. We've had numerous conversations. Are  
you  
23 asking when was the first date we spoke?  
24 Q. Sure. That would help. When is the  
first  
25 one?  
26 A. I would have to say it was during a  
staff  
27 meeting that was held between Asher and the  
28 subcontractors and the client. And that would have

57

1       been -- I think that was March 28th.  
2       Q.     Where did that staff meeting occur?  
3       A.     Via conference call.  
4       Q.     Who was present from Asher & Partners on  
the  
5       conference call?  
6       A.     I believe Valerie Wernick, Cailin  
Cannon. I  
7       think that's it.  
8       Q.     Who was on the conference call from  
9       California Department of Health Services?  
10      A.     Colleen Stevens. And I'm not quite  
sure, but  
11      possibly Tacey Buffington.  
12      MR. L'ORANGE: Tracy?  
13      THE WITNESS: Tacey, T-A-C-E-Y. But I'm  
14      not -- I can't remember. That was a while ago. I  
can't  
15      remember if she was actually on the call or not.  
16      MR. LERNER: Q. Who was present other  
than  
17      yourself from Carol H. Williams?  
18      A.     On that call, it was Shirley Priestley.  
19      Q.     Were other minority subcontractors  
20      represented on that call?  
21      A.     Yes.  
22      Q.     Which ones?  
23      A.     Ad Americas.  
24      Q.     Who from Ad Americas was on the call?  
25      A.     I don't remember.  
26      Q.     Was the name Hernandez?  
27      A.     Yes.  
28      Q.     Was he on the call?

58

1       A.     I don't remember.  
2       Why am I blanking on the Asian agency?  
3       Q.     Were they Amada Wong?  
4       A.     Yes. Amada Wong was on the call, Ad  
Americas  
5       and Carol Williams.  
6       Q.     Do you know who from Amada Wong was on  
the  
7       call?  
8       A.     No, but -- No.  
9       MR. ZEMBSCH: Just to clarify, when you  
say  
10      Carol Williams, you mean the agency?  
11      THE WITNESS: The agency, not Carol  
Williams  
12      herself. Thank you.  
13      MR. LERNER: Q. The two individuals  
from the  
14      agency that is Carol H. Williams were yourself and  
15      Shirley Priestley?  
16      A.     Correct.  
17      Q.     What was the topic of conversation --  
topic  
18      or topics of conversation on that conference call?  
19      A.     To discuss the status of all projects  
from  
20      each agency.

21 Q. Was there any other general topics of  
22 discussion during that conference call?  
23 A. To my knowledge, there was an issue --  
24 (Sotto voce discussion between the  
witness  
25 and counsel)  
26 From my understanding before the  
business was  
27 transitioned over to me, there was a budget cut,  
and at  
28 that time the client was not sure as to what the  
new  
59  
1 budget would be.  
2 Q. Did the client indicate when the budget  
would  
3 be determined?  
4 A. She had mentioned that they were waiting  
5 for -- I think it was two additional signators, and  
she  
6 had hoped within the next -- Whenever that call  
was, and  
7 I think it was March 28th, I think within the next  
week  
8 or two she was hoping to have a finalized budget.  
9 Q. So other than the status of all projects  
at  
10 each agency and the budget issue, were there any  
other  
11 general topics of discussion in that conference  
call?  
12 A. No.  
13 Q. What was discussed at that time  
regarding the  
14 status of projects at Carol H. Williams?  
15 A. All of our projects that had been  
presented  
16 to the client were awaiting approval by the  
governor's  
17 office.  
18 Q. Was the same true with regard to  
projects of  
19 the other minority subcontractors?  
20 A. I don't remember.  
21 Q. Was there any discussion at that meeting  
22 concerning the status of any future contracts with  
the  
23 California Department of Health Services for a  
statewide  
24 meeting campaign?  
25 A. Not that I remember, no.  
26 Q. Do you have an understanding of any of  
the  
27 contractual arrangements between the California  
28 Department of Health Services and Asher & Partners  
that  
60  
1 involve Carol H. Williams Agency?  
2 MR. ZEMBSCH: I'm going to just object.  
It  
3 calls for a legal conclusion. Foundation.

4 MR. LERNER: I'm asking for her  
5 understanding, Counsel.  
6 MR. ZEMBSCH: Right.  
7 THE WITNESS: Can you restate the  
question?  
8 MR. LERNER: Q. Yeah. Do you have an  
9 understanding as to whether there's a current media  
10 contract between the State of California and any  
agency  
11 to provide -- under which Carol H. Williams  
provides any  
12 work?  
13 A. I have a basic understanding.  
14 Q. What's your understanding?  
15 A. That because it's a state account, that  
16 agencies only keep the business for a certain  
number of  
17 years, and then there is an RFP process that occurs  
18 where you have to basically bid for the business  
again.  
19 Q. Do you have any understanding as to  
whether  
20 there is an RFP outstanding for the California  
21 Department of Health Services?  
22 A. I understand that there's one that's  
going to  
23 be issued sometime in May, I believe.  
24 Q. How did you come to that understanding?  
25 A. We received a flier in the mail.  
26 Q. Have you done any work in connection  
with  
27 that RFP?  
28 A. No.

61  
1 Q. Are you planning to do any work in  
connection  
2 with that RFP?  
3 A. That I don't know.  
4 Q. Have you spoken with anyone about that  
RFP?  
5 A. No, other than -- We received the flier.  
I  
6 think it was Thursday or Friday of last week. And  
I  
7 asked Joy Allen to make copies and distribute it so  
8 people would be aware that it's coming, but I  
haven't  
9 spoken to anyone regarding the actual RFP.  
10 Q. When did you first become aware that  
there  
11 would be an RFP issued by the California Department  
of  
12 Health Services?  
13 A. I guess from that flier.  
14 (Sotto voce discussion between the  
witness  
15 and counsel)  
16 I knew that there is an RFP coming up.  
I had  
17 an impression that one was coming up, but I didn't  
have  
18 a conversation with anyone. I just knew it was



coming  
19 up.  
20 Q. Are you aware that there was an RFP that  
was  
21 issued by the California Department of Health  
Services  
22 last year for a statewide media campaign?  
23 A. No.  
24 Q. Are you aware that a proposal by Asher &  
25 Partners in response to an RFP was rejected?  
26 A. No.  
27 Q. Are you aware whether there is a  
contract  
28 with the California Department of Health Services  
that's

62  
1 presently outstanding under which Carol H. Williams  
is  
2 doing work?  
3 A. Could you restate the question?  
4 Q. I'll try and make it simpler.  
5 Are you aware of any contractual  
arrangements  
6 under which the work presently being done -- for  
which  
7 the work is presently being done for the California  
8 Department of Health Services?  
9 A. Yes.  
10 Q. What is your understanding of the  
pending --  
11 of the existing contractual arrangement?  
12 A. I have a basic understanding, like I  
stated  
13 before, that because it's a state account, that  
once --  
14 that the main advertising agency works in  
conjunction  
15 with the subcontractors until a certain point, and  
at  
16 that point the agencies have to go through the RFP  
17 process again. So until whenever the contract  
ends,  
18 which I'm not sure when it ends, that we have a  
contract  
19 with California Department of Health Services.  
20 Q. Are you aware of an account at Carol H.  
21 Williams Agency called the Los Angeles County  
Department  
22 of Health Services?  
23 A. I'm aware of it, yes.  
24 Q. Do you know who presently is the account  
25 executive for that account?  
26 A. To my understanding, we aren't doing any  
work  
27 for them. So I don't know if there is an account  
28 executive who would be the contact.

63  
1 Q. Do you know anyone who has worked as an  
2 account executive on that account with Carol H.  
Williams  
3 Agency?

I  
make  
just a  
that's  
for  
the  
County  
creative  
for  
a  
amended  
64  
so  
Exhibit B  
copy  
just  
representatives of  
the  
services  
terminated

4           A.     Nancy Cech worked on that account. And  
5     don't know of any others. And I think Nancy had me  
6     a phone call to someone there in her absence, but I  
7     didn't have a lot of contact with them. It was  
8     follow-up phone call.  
9           Q.     Are you familiar with any creative  
10    been produced for that account by the agency?  
11           MR. ZEMBSCH: Let me just interrupt here  
12    a second. Can we go off the record for a second?  
13           (Discussion off the record)  
14           MR. ZEMBSCH: We're back on.  
15           THE WITNESS: I'm sorry. Can you ask  
16    question again?  
17           MR. LERNER: Q. Are you aware of any  
18    creative that's been produced for the Los Angeles  
19    Department of Health Services account?  
20           A.     No.  
21           Q.     Are you aware of any -- strike that.  
22           To your knowledge, was any of the  
23    that was produced by the Carol H. Williams Agency  
24    Black Infant Health related to secondhand smoke?  
25           A.     No.  
26           Q.     I'd just like to have you, please, take  
27    look at Exhibit No. 263. This is a copy of the  
28    Notice of Taking Deposition of the person most  
1    knowledgeable at Carol H. Williams Advertising and  
2    forth.  
3           If you take a look specifically at  
4    at pages 4 and 5.  
5           MR. ZEMBSCH: Exhibit 263 --  
6           MR. LERNER: Exhibit B.  
7           MR. ZEMBSCH: Gotcha.  
8           MR. LERNER: Q. As you'll note, it is a  
9    of the same item that was attached to Exhibit 262.  
10   Let's go off the record.  
11           (Discussion off the record)  
12           MR. LERNER: Q. Ms. Streets, we were  
13   discussing off the record that it had been our  
14   understanding from testimony given by  
15   the California Department of Health Services that  
16   prime contract with Asher & Partners to provide  
17   for the statewide media campaign effectively

18 on March 31, 2000, and that no further work was  
going  
19 forward. It's your understanding, we take it, that  
work  
20 is going forward at Carol H. Williams on the  
California  
21 Department of Health Services contract?  
22 A. Yes. We are moving forward with the  
budget  
23 that we have slated for 2000, and we are still in  
24 contact with Asher. But in terms of the agreement  
25 between Asher and California Department of Health  
26 Services, I was not aware that their contract ended  
in  
27 March.  
28 Q. And you were not aware that the  
California

65  
1 Department of Health Services had rejected a  
proposal by  
2 Asher last year in response to an RFP?  
3 A. No.  
4 Q. Do you know what the current term or the  
term  
5 of the current contract is between the California  
6 Department of Health Services and Asher & Partners?  
7 A. No.  
8 Q. Do you know whether the budget that  
Carol H.  
9 Williams developed for the year -- calendar year  
2000  
10 has been approved by the California Department of  
Health  
11 Services?  
12 A. Yes, it has.  
13 Q. When was the budget approved?  
14 A. The client signed revised estimates -- I  
15 believe it was either Wednesday or Thursday of last  
16 week. Tuesday or Wednesday. It was sometime last  
week.  
17 Q. So that's during the last week of April  
2000?  
18 A. Yes.  
19 Q. Do you recall what the total amount of  
budget  
20 was that was approved?  
21 A. For media only, it's approximately  
660,000.  
22 Q. Are there other components of the budget  
that  
23 were approved?  
24 A. Production estimates. Some production  
25 estimates have been signed.  
26 Q. What's the total amount or approximate  
total  
27 amount of the production estimates that have been  
signed  
28 off by the California Department of Health  
Services?

66

1 A. That I don't know.

2 Q. Is there other production estimates --  
are  
3 there other production estimates that are awaiting  
4 approval?  
5 A. Yes.  
6 Q. What's the amount of the other  
production  
7 estimates that are awaiting approval?  
8 A. I don't know the exact amount, but it's  
less  
9 than a hundred thousand.  
10 Q. What's the total amount of production  
11 estimates that were submitted for approval?  
12 A. I don't have an exact number.  
13 Q. Do you have an approximate number of  
what was  
14 estimated?  
15 A. I would say between the outdoor being  
16 billboards, bus kings and the radio and print,  
about --  
17 it's definitely less than 200,000, but I really  
can't  
18 give you an exact number.  
19 Q. Do you have an -- do you recall what the  
20 approximate total amount of the budget is to be for  
21 calendar year 2000?  
22 A. I know it's been cut, but I don't know  
what  
23 the original number was.  
24 (Whereupon, Defendant's Exhibit 264  
25 was marked for identification.)  
26 MR. LERNER: I just want to state that  
we  
27 earlier learned that while we were off the record  
that  
28 this deposition was to commence with Exhibits  
numbering  
67  
1 at 262. So we renumbered the two that were  
originally  
2 marked as Exhibits 1 and 2 as Exhibits 262 and 263.  
3 Any objection, Counsel?  
4 MR. ZEMBSCH: That's fine with me.  
5 MR. LERNER: Thank you.  
6 Q. Ms. Streets, can you identify Exhibit  
264?  
7 A. It's a California Department of Health  
8 Services media plan for calendar year 2000.  
9 Q. Is this a document that you assisted in  
10 preparing?  
11 A. No.  
12 Q. To your knowledge, who prepared this  
13 document?  
14 A. I don't know.  
15 Q. To your knowledge, was this document  
prepared  
16 by Asher -- I mean by Carol H. Williams Agency?  
17 A. Yes.  
18 Q. Now, the page number CHW 3958 --  
19 A. Uh-huh.  
20 Q. The second page from the rear,  
approximately.

21 A. Okay.  
22 Q. I see some handwriting on that page.  
23 A. Yes.  
24 Q. Do you recognize any of the handwriting?  
25 A. No.  
26 Q. Have you used this document in the  
course of  
27 your work at Carol H. Williams Agency?  
28 A. No.

68  
1 Q. When did you first see this document?  
2 A. When you handed it to me.  
3 Q. Are you aware of any other calendar year  
2000  
4 media plan prepared by Carol H. Williams Agency?  
5 A. No.  
6 Q. Have you ever discussed with anyone at  
Carol  
7 H. Williams Agency media objectives for calendar  
year  
8 2000 for the California Department of Health  
Services?  
9 A. No.  
10 Q. Could you take a look at the page  
11 Bates numbered CHW 3937, which is called California  
12 Department of Health Services African American  
Adult  
13 Smoking 2000 Media Plan.  
14 A. Okay.  
15 Q. Have you seen this page before?  
16 A. No.  
17 Q. Have you seen a similar -- Do you call  
this  
18 page a flow chart?  
19 A. Yes.  
20 Q. Have you seen a 2000 media plan flow  
chart  
21 prepared by Carol H. Williams for the California  
22 Department of Health Services?  
23 A. Yes.  
24 Q. Did you help prepare such a flow chart?  
25 A. No.  
26 Q. Did you have any input for such a flow  
chart?  
27 (Sotto voce discussion between the  
witness  
28 and counsel)

69  
1 MR. ZEMBSCH: Can you restate the  
question?  
2 I'm sorry. Not restate it, just repeat it.  
3 MR. LERNER: Q. Did you ever discuss  
such a  
4 flow chart with anyone?  
5 A. When you mean such a flow chart, are you  
6 talking about this one here?  
7 Q. Well, any flow chart containing a media  
plan  
8 for the California Department of Health Services.  
9 A. Yes.  
10 Q. When did you discuss such a flow chart?

11 A. Within the last two weeks, I would say.  
12 Q. In the context of that conversation,  
were you  
13 discussing a particular version of the 2000 media  
plan  
14 flow chart?  
15 A. Yes.  
16 Q. What's the version you were discussing  
at  
17 that time?  
18 A. I would have to say versions 4 and 5.  
19 Q. Did you produce versions 4 and 5 in  
response  
20 to the subpoena that was issued in this case?  
21 A. No.  
22 Q. So were prior versions of the media flow  
23 chart that is represented by versions 4 and 5  
produced  
24 in response to the subpoena?  
25 A. No.  
26 Q. Were any flow charts with respect to the  
2000  
27 media plan for the California Department of Health  
28 Services produced pursuant to the deposition  
subpoena?  
70  
1 A. No.  
2 (Sotto voce discussion between the  
witness  
3 and counsel)  
4 Maybe -- maybe I --  
5 Q. Other than the one that is found in this  
6 media plan?  
7 (Sotto voce discussion between the  
witness  
8 and counsel)  
9 MR. ZEMBSCH: He's got a question out  
there.  
10 Other than this one.  
11 MR. LERNER: Q. Other than this one.  
12 MR. ZEMBSCH: Right.  
13 (Sotto voce discussion between the  
witness  
14 and counsel)  
15 MR. ZEMBSCH: Okay. Okay.  
16 MR. LERNER: I heard that.  
17 Q. By produced, I meant was it given to our  
18 side --  
19 A. I'm sorry.  
20 Q. -- in response to the subpoena?  
21 A. Yes.  
22 Q. Not was it made up?  
23 A. Yes. There were versions of this  
document  
24 that were turned over to you.  
25 Q. Which versions were turned over to your  
26 recollection?  
27 A. I would imagine 4 and 5.  
28 MR. ZEMBSCH: Let me just go ahead and  
add an

1 objection for the record. The line of questioning  
using 2 the term "produced" called for a legal conclusion.  
3 Obviously, the witness can continue.  
4 MR. LERNER: I think we got the problem  
5 solved.  
6 (Discussion off the record)  
7 MR. LERNER: Let's mark these in that  
order.  
8 (Whereupon, Defendant's Exhibit 265  
9 was marked for identification.)  
10 (Whereupon, Defendant's Exhibit 266  
11 was marked for identification.)  
12 (Whereupon, Defendant's Exhibit 267  
13 was marked for identification.)  
14 MR. LERNER: Q. We've marked as Exhibit  
265 a document called California Department of Health  
15 Services, African American - Adult Smoking, 2000  
Media 16  
17 Plan Revision 1. Is that revision one the flow  
chart 18 that we were just discussing?  
19 A. Yes.  
20 Q. Did you participate in creating this  
revision 21 one?  
22 A. No.  
23 Q. Do you know who had involvement in that?  
24 A. I would imagine Anthony Welch. But  
other 25 than Anthony, no, I don't.  
26 Q. The preparation of such a flow chart  
would 27 have fallen within Mr. Welch's responsibilities as  
you 28 understood it?

72  
1 A. Yes.  
2 Q. I'm going to hand you a document marked  
3 Exhibit -- Deposition Exhibit 266, which appears to  
be 4 an e-mail dated Sunday, March 12, 2000; another  
e-mail 5 dated Friday, March 10, 2000 and some attachments.  
I 6 ask you if you can identify those documents for us,  
7 please.  
8 A. This is a monthly budget recap that goes  
to 9 CDHS and Asher.  
10 Q. The e-mail on the top page is a copy of  
an 11 e-mail that was sent to you by Ms. Priestley?  
12 A. Yes.  
13 Q. And the e-mail she sent to you was -- as  
I 14 understand it, she sent to you "CDHS worksheet.  
Will 15 need 3/15 billing to accurately calculate.  
Shirley." 16 That was her message to you; is that right?

17 A. Yes.  
18 Q. And she attached to you an e-mail from  
19 Valerie Wernick at Asher & Partners; is that  
correct?  
20 A. Yes.  
21 Q. And she was one of the recipients of  
that  
22 e-mail?  
23 A. Yes.  
24 Q. And you recognize Leonard Hernandez as  
an  
25 account executive at Ad Americas?  
26 A. Yes.  
27 Q. Is Akauwe an account executive with  
Amada  
28 Wong?

73  
1 A. I don't know who that person is.  
2 Q. Now, did you do anything with regard to  
the  
3 worksheet in response to this e-mail?  
4 A. No, I didn't.  
5 Q. Did you give it to anyone?  
6 A. No.  
7 Q. Did you provide any information to  
Shirley  
8 Priestley as a result of this e-mail?  
9 A. No.  
10 Q. Do you know, was anything done to  
11 accurately -- to provide a 3/15 billing to  
calculate any  
12 figures?  
13 A. Yes.  
14 Q. What was done?  
15 A. From what I understand, this was before  
the  
16 account was officially transitioned to me, but from  
what  
17 I understand is that this information was used in  
order  
18 to let --  
19 (Sotto voce discussion between the  
witness  
20 and counsel)  
21 This document was used to determine how  
much  
22 of the 1999 budget was still left at the various  
23 agencies so they could determine how much money  
would be  
24 needed in order to fulfill the 2000 budget, from  
what I  
25 understand.  
26 Q. Is it your understanding that this was  
part  
27 of an effort to determine rollover would be  
available  
28 for the year 2000?

74  
1 A. Yes.  
2 Q. To your knowledge, was any rollover  
amount



3 determined following this?  
4 A. For Carol H. Williams?  
5 Q. Yes.  
6 A. Yes.  
7 Q. What is the amount of that rollover?  
8 A. It was approximately 60,000.  
9 Q. Who determined the amount of the  
rollover?  
10 A. It was based on a formula that was in a  
11 document that was provided by someone at Asher.  
12 Q. Do you know who at Asher?  
13 A. No.  
14 Q. Would you please turn to the billing  
cover  
15 sheet, which is the second page?  
16 A. Okay.  
17 Q. Do you have an understanding of what  
this  
18 chart depicts?  
19 A. Yes.  
20 Q. Would you explain it, please?  
21 A. The first column has the internal CHWA  
job  
22 number as well as the description of the job. We  
are  
23 asked to break out all production where we have  
moneys  
24 that are commissionable and noncommissionable, and  
then  
25 there's a total amount. And this is reflecting  
both  
26 production and media.  
27 Q. What is meant by commissionable?  
28 A. The markup that the agency receives.

75  
1 Q. In this sense, if I interpret this  
correctly,  
2 the commissionable amount, which is in the second  
3 column, is multiplied by some factor, which is the  
4 commission that appears in the third column?  
5 A. Yes.  
6 Q. What is the column -- What's the factor;  
do  
7 you happen to know?  
8 A. I don't know the exact number.  
9 Q. Does it vary by the type of ad -- or by  
the  
10 media? I'm sorry.  
11 A. I'm not sure.  
12 Q. Does the commissionable column contain  
the  
13 amount of the media billings for the month of March  
14 2000?  
15 A. Yes.  
16 Q. So if I interpret this correctly, the  
total  
17 media billings for advertisements under the  
California  
18 Department of Health Services account for March  
2000 was  
19 \$66,994.24?  
20 A. Yes.

21 Q. And then the commission to the Carol H.  
22 Williams Agency for the month of March 2000 based  
on  
23 those billings totals \$11,706.90?  
24 A. Yes.  
25 Q. And what does the noncommissioned column  
26 refer to?  
27 A. From my understanding -- and this isn't  
28 specific to CDHS -- for various -- on production

76  
1 estimates that are line items where the agency  
receives  
2 a commission, and there are also line items where  
we  
3 cannot receive a commission. And to my knowledge,  
4 that's what noncommissioned means. I don't know  
what it  
5 means in terms of media, though.  
6 Q. On the line referring to Not in My House  
7 print there is a figure of 9,170.05. Does that  
reflect  
8 a credit back to the California Department of  
Health  
9 Services?  
10 A. I believe it does.  
11 Q. Do you know the reasons for that credit?  
12 A. No, I don't.  
13 Q. So would it be fair to say that the  
number at  
14 the bottom right-hand corner, the total amount of  
15 \$69,531.09, represents the total billings plus  
16 commission less credits due to Asher & Partners  
under  
17 its account with the California Department of  
Health  
18 Services for March 2000?  
19 MR. ZEMBSCH: Do you understand that  
20 question?  
21 THE WITNESS: No. Do you mean due to  
22 Carol H. Williams or --  
23 MR. LERNER: Q. Due to Carol H.  
Williams,  
24 I'm sorry, yeah.  
25 A. Yes.  
26 Q. Will you turn to the next page, please?  
27 A document called CHWA California  
Department  
28 of Health Services - Budget Recap, March 2000. Are  
you

77  
1 familiar -- have you seen -- do you have an  
2 understanding of what this document shows?  
3 A. Yes.  
4 Q. And could you tell -- could you explain  
it  
5 for us, please?  
6 A. Yes. First column is the internal CHWA  
job  
7 number. The second column is a job description.  
The  
8 third column is the estimate amount based on the

9 estimate that CHWA provides the client. Current  
Month  
10 is what has been billed in that month. Previously  
11 Billed, from whenever the job was opened up until  
the  
12 previous month, anything that was billed during  
that  
13 time goes in that column. And then Billed to Date  
would  
14 be a summation of current month and previously  
billed.  
15 And then Outstanding Balance would be billed to  
date  
16 subtracted from the estimate amount.  
17 Q. Does this chart or table cover any  
particular  
18 time period?  
19 Let me break it down a little easier.  
The  
20 Current Month column refers to the month of March  
2000;  
21 is that correct?  
22 A. Yes.  
23 Q. And when it says Billed to Date, there's  
a  
24 Billed to Date column, and that's billed to date  
from  
25 when to when?  
26 A. I do not know.  
27 Q. Does this cover a period of a calendar  
year?  
28 A. This particular document, I don't know.  
But  
78  
1 the budget recap is developed for a calendar year.  
2 Q. Perhaps we ought to clarify. The budget  
cap  
3 is developed for a 12-month period to reflect  
spending  
4 over a 12-month period?  
5 A. In general, yes. For this particular  
client,  
6 I'm not sure.  
7 Q. For this particular client, do you have  
any  
8 understanding as to when the 12-month budget period  
9 commences?  
10 A. No.  
11 Q. Who was responsible at Carol H. Williams  
12 Agency for putting together this budget recap?  
13 A. It was a woman by the name of Tamara  
Tripp,  
14 and that's T-R-I-P-P, who is an assistant account  
15 executive. And I don't know how many of these  
budget  
16 recaps she did, but now it falls under -- because I  
work  
17 on the account now, it's the responsibility of Joy  
18 Allen.  
19 Q. Is Tamara Tripp still employed by Carol  
H.  
20 Williams Agency?

21 A. Yes.  
22 Q. Who did Tamara Tripp report to when she  
was  
23 involved with the California Department of Health  
24 Services account?  
25 A. Shirley Priestley and Lee Wills.  
26 Let me just clarify. I'm pretty sure  
that  
27 she reported directly to Lee Wills, but I think she  
just  
28 worked with Shirley Priestley on CDHS.

79

1 Q. Does Shirley Priestley still work at the  
2 Carol H. Williams Agency?  
3 A. Yes.  
4 Q. And does Lee Wills still work at the  
agency?  
5 A. No.  
6 Q. Do you have any information as to where  
7 Lee Wills is presently employed?  
8 A. No.  
9 Q. Do you have any information as to where  
10 Ms. Holman is presently employed?  
11 A. No.  
12 Q. Was she going -- To your knowledge, did  
she  
13 leave Carol H. Williams Agency to take another  
position?  
14 A. Not that I know of.  
15 Q. If you wouldn't mind taking a look at  
the  
16 next page of Exhibit 266, which is another 1999  
budget  
17 recap for December, and do you have an  
understanding of  
18 this document?  
19 A. Yes. It's for -- I'm assuming it's for  
20 December 1999, and it's the same format as the  
previous  
21 March 2000 document.  
22 Q. I note that if you take a look at the  
job  
23 numbers on the March 2000 budget recap --  
24 A. Uh-huh.  
25 Q. -- under Media, there are two job  
numbers,  
26 200-528 and 200-529, that do not appear on the 1999  
27 budget recap. Do you see that?  
28 A. Yes.

80

1 Q. Can you tell me what the 200-528 job is?  
2 A. I would have to speculate. I'm not  
sure.  
3 Q. Do you have any understanding as to what  
the  
4 200-529 job is?  
5 A. No.  
6 Q. You earlier mentioned that there was  
some  
7 discussion with the state concerning production of  
new

8 spots relating to secondhand smoke.  
9 A. Yes.  
10 Q. And there was the State of California  
11 Department of Health Services authorized work on  
the  
12 production of the secondhand smoke spots?  
13 A. Yes.  
14 Q. Was a budget established for those  
secondhand  
15 smoke spots?  
16 A. A production budget or a media budget?  
17 Q. Well, that is what I'm trying to find  
out.  
18 Was there a production budget established for those  
19 spots?  
20 A. No, there was not a budget established.  
21 Q. Was there a media budget established for  
22 those spots?  
23 A. Not for the spots particularly. The  
budget  
24 that was established was to get us through the year  
25 2000.  
26 Q. Was a budget proposed by Carol H.  
Williams to  
27 the California Department of Health Services for a  
28 secondhand smoke spot radio?

81  
1 A. I don't know.  
2 MR. ZEMBSCH: I'm just going to object,  
3 vague. You mean the agency?  
4 MR. LERNER: Yeah.  
5 When I say "Carol H. Williams," you  
should  
6 assume I mean the agency unless I specify  
otherwise.  
7 MR. ZEMBSCH: Fine with that?  
8 THE WITNESS: Okay. I don't know.  
9 MR. LERNER: Q. And was a budget  
proposed  
10 for -- let's say a media budget proposed for a  
11 secondhand smoke spot radio?  
12 A. I don't know.  
13 Q. Did you have occasion to discuss this  
budget  
14 recap for March 2000, which is page CHW5636, with  
15 anyone?  
16 A. No.  
17 Q. If you wouldn't mind referring to the  
18 production items on page 5636, I note that -- and  
the  
19 same items on page 5635, I note that on the March  
--  
20 A. I'm sorry. You said 5636 and 5635?  
21 Q. Yeah. I'm sorry. Excuse me. Strike  
all  
22 that. I got the wrong page numbers.  
23 A. I thought so. Okay.  
24 Q. I'd like you to take a look at the  
production  
25 job numbers on the March 2000 budget recap, which  
is  
26 page 5636.

27 A. Okay.  
 28 Q. And compare that to the production job

82  
 budget 1 numbers on the December budget -- December 1999  
 2 recap, which is page 5637.  
 3 A. Okay.  
 4 Q. And do you see that the March 2000 recap  
 5 refers to job numbers 200-188, 200-190, 200-191,  
 6 200-192, and 200-193 which are not on the December  
 1999 budget recap?  
 7  
 8 A. Correct.  
 9 Q. Are you familiar with any of those jobs?  
 10 A. To my understanding, there was some  
 research 11 done, focus group research done, and I believe that  
 12 there was a concept called slave that was tested.  
 And I 13 can only assume that these jobs were only opened to  
 test 14 that concept.  
 15 Q. Did you have any discussions with anyone  
 16 concerning the focus groups?  
 17 A. No.  
 18 Q. Do you know if anyone from Carol H.  
 Williams 19 Agency attended the focus groups?  
 20 A. Yes.  
 21 Q. Who from Carol H. Williams Agency  
 attended? 22 A. I believe it was Lee Wills.  
 23 Q. Was any report prepared to your  
 knowledge 24 concerning the focus groups testing the slave  
 concept? 25 A. I would assume there was.  
 26 Q. Have you seen one?  
 27 A. No.  
 28 (Sotto voce discussion between the  
 witness

83  
 1 and counsel)  
 2 I'm sorry. Ray Clemons also attended  
 the 3 groups, I believe.  
 4 Q. Does Mr. Clemons work at the Carol H.  
 5 Williams Agency?  
 6 A. Yes.  
 7 Q. What's his position?  
 8 A. He is the creative director.  
 9 Q. To your knowledge, has Mr. Clemons done  
 any 10 other work on the California Department of Health  
 11 Services account?  
 12 A. Well, he oversees creative that's  
 produced, 13 but specific work, no.  
 14 Q. With reference to the billing cover  
 sheet 15 from March 2000, to your knowledge was the amount

of  
16 \$69,531.09 billed to the State of California?  
17 MR. ZEMBSCH: Counsel, you're talking  
about  
18 5635 now?  
19 MR. LERNER: Yes.  
20 THE WITNESS: Thank you.  
21 MR. ZEMBSCH: Sure.  
22 THE WITNESS: I'm sorry. Can you  
restate the  
23 question?  
24 MR. LERNER: Q. Was there a bill to the  
25 state -- to the California Department of Health  
Services  
26 by Carol H. Williams Advertising for March 2000?  
27 A. I believe so.  
28 Q. And do you review those billings as  
account  
84  
1 executive?  
2 A. Yes.  
3 Q. So was the amount billed for March 2000  
the  
4 amount shown on the billing cover sheet, which is  
page  
5 5635, in the total amount of \$69,531.09?  
6 A. I believe so.  
7 Q. Take a look, please, at the billing  
cover  
8 sheet for February 2000, which is page CHW 5638,  
which  
9 is part of Exhibit 266. Do you see that?  
10 A. Yes.  
11 Q. Do you see that there's a Total February  
in  
12 the bottom right-hand corner of \$30,257.25?  
13 A. Yes.  
14 Q. Is that the amount that was billed by  
15 Carol H. Williams Advertising to the California  
16 Department of Health Services for February 2000?  
17 A. I don't know. I can assume -- Well, I  
don't  
18 know.  
19 Q. In the ordinary course, would this  
document  
20 reflect the amount billed?  
21 A. Yes.  
22 Q. I see that there's a billing cover sheet  
for  
23 January 2000 a couple of pages further on in  
Exhibit  
24 266, which is Bates numbered CHW 5645. At the top  
it  
25 says it's a billing cover sheet January 2000. Do  
you  
26 see that?  
27 A. Yes.  
28 Q. And there's a total billing in the  
bottom  
85  
1 right-hand corner of \$30,213.65.

2 A. Yes.  
3 Q. To your knowledge, would that in the  
ordinary  
4 course be the amount that would have been billed  
for  
5 January 2000?  
6 A. Yes.  
7 MR. ZEMBSCH: Is this a good time for  
five  
8 minutes?  
9 MR. LERNER: Yeah. Take a break.  
10 (Recess taken from 3:02 to 3:11 p.m.)  
11 MR. LERNER: Q. Ms. Streets, do you  
know of  
12 a document that states the rotations for the  
California  
13 Department of Health Services advertising for  
calendar  
14 year 1999?  
15 A. Rotation in terms of media?  
16 Q. Placement.  
17 A. Placement? Not that I recall.  
18 Q. Do you know of a document that shows the  
19 rotations for California Department of Health  
Services  
20 advertising placement by Carol H. Williams in  
calendar  
21 year 2000?  
22 A. Other than the flow chart -- If I  
understand  
23 your question, it would be the flow chart. The  
flow  
24 chart.  
25 Q. Would you please take a look at Exhibit  
267.  
26 A. We don't have that one.  
27 Q. After you've had a chance just to look  
it  
28 over and see what's there, would you let me know?  
  
86  
1 A. Uh-huh.  
2 Q. I notice that the last page of this  
exhibit  
3 is a 2000 Media Plan flow chart, Revision 3. Do  
you see  
4 that?  
5 A. Yes.  
6 Q. This is the last version of the 2000  
Media  
7 Plan flow chart that we found in the documents that  
were  
8 turned over to us.  
9 A. Uh-huh.  
10 Q. So I'm going to have to ask you about  
the  
11 rotation from this document.  
12 A. Okay.  
13 Q. Can you determine from this document  
what the  
14 rotation is in calendar year 2000 for ads for the  
15 California Department of Health Services pertaining  
to



16 secondhand smoke?  
17 A. Okay. The latest revision, the only  
thing  
18 that's different from this revision is that we were  
able  
19 to move one or two of the newspaper insertions  
back.  
20 Q. What do you mean back?  
21 A. Right. If you look at Revision 3, there  
22 were -- there was some print that was to run in  
February  
23 and March. Do you see where it says "Newspaper (3  
24 column by 10 and a half)" and there is a block in  
25 February 21st and then March 13th?  
26 Q. Yes.  
27 A. From what I recall, we were able to move  
28 either one or both of these insertions back to  
later on

87  
1 in the year. I don't know exactly when.  
2 And I think radio, we were also able to  
--  
3 No. Actually, I think that was the only change  
that I  
4 recall.  
5 Q. So to your knowledge, there has been a  
6 Revision 4 of the media plan?  
7 A. Yes.  
8 Q. And that Revision 4 is the last revision  
so  
9 far?  
10 A. Actually, I think the last revision is  
No. 5.  
11 Q. How does No. 4 differ from No. 3 that we  
have  
12 in front of us?  
13 A. It's the same. The newspaper has been  
pushed  
14 back. And then I'm not familiar with what the  
15 Grassroots effort is.  
16 Q. Is there any difference in radio?  
17 MR. ZEMBSCH: This is between 3 and 5,  
you  
18 said?  
19 MR. LERNER: Q. Yes, between 3 and 5.  
20 A. I believe -- I can't be sure, but I  
believe  
21 we were able to move radio back as well.  
22 Q. Do you have a copy of the Revision 5  
here?  
23 A. Yes.  
24 Q. Would you mind producing it so that we  
can  
25 discuss it?  
26 A. Sure.  
27 Q. Thanks.  
28 A. Should I --

88  
1 MR. ZEMBSCH: We can go off the record  
for a  
2 second.

3 MR. LERNER: Do you have an objection?  
4 MR. ZEMBSCH: No, I don't. If we could  
go  
5 off the record.  
6 (Discussion off the record)  
7 (Whereupon, Defendant's Exhibit 268  
8 was marked for identification.)  
9 MR. LERNER: Q. You've kindly brought  
in and  
10 we've had marked as Exhibit 268 a flow chart called  
11 California Department of Health Services, African  
12 American - Adult Smoking, 2000 Media Plan, Revision  
5.  
13 And I take it that this is the latest revision of  
the  
14 flow chart that we have just been discussing; is  
that  
15 correct?  
16 A. Yes.  
17 Q. It's a little hard to make out some of  
these  
18 numbers, but would you please explain the radio  
section  
19 of this flow chart?  
20 A. The radio -- because we were not able to  
21 cancel a lot of the media, particularly radio,  
based on  
22 the budget that we were given of approximately  
660,000,  
23 there were only certain things that we could cut.  
So in  
24 Revision 5, you'll see that there is no radio in  
the  
25 months of November -- October and November.  
26 Q. So the radio that had been planned for  
27 November and December was canceled?  
28 A. Yes. And then --  
  
89  
1 Q. Before you go on to any other category,  
what  
2 was the number -- was the number of radio or --  
well,  
3 what's one of the numbers that's reflected here for  
--  
4 in each of these columns referencing? Is that a  
number  
5 of radio points being purchased?  
6 A. Yes, it's GRPs.  
7 Q. And GRP means what?  
8 A. Gross ratings point.  
9 Q. So was the number of gross rating points  
10 revised during the periods of time that are covered  
by  
11 Revision 5?  
12 A. They were slightly altered.  
13 Q. In what way?  
14 A. In some cases they stayed the same, and  
in  
15 some cases depending on the market they were  
slightly  
16 lowered.  
17 Q. Due to the copy quality of this

particular

18 page, I can't make out the number of rating points  
here,  
19 but with regard to the period of time in March,  
there's  
20 three weeks that appear to be blacked out.  
21 A. Yes.  
22 Q. Now, were those weeks canceled, or does  
that  
23 mean those weeks had been run?  
24 A. Those actually ran, and they came out --  
25 There's a footnote on Revision 5 that says,  
"January  
26 through April spending of \$114,714," which is the  
shaded  
27 areas on radio, bus kings and newspaper, "was  
funded  
28 from the remaining 1999 budget."

90

1 Q. I see. That spending was not part of  
the  
2 \$660,000 for the otherwise -- for the year 2000  
radio  
3 budget?  
4 A. Correct.  
5 Q. So the spending of the year 2000 radio  
budget  
6 then began in May?  
7 A. Yes.  
8 Q. Under Revision 5?  
9 A. Yes.  
10 Q. Now, it appears that, if I see this  
11 correctly, the number of total -- gross rating  
points  
12 purchased in May and June in the Los Angeles,  
13 San Francisco and Sacramento markets increased in  
14 Revision 5 to 115 per week from 105 that was  
previously  
15 planned?  
16 A. Yes.  
17 Q. Then it appears that during July the  
number  
18 of gross rating points in those three markets under  
19 Revision 5 is planned to be 115 per week, whereas  
20 previously it was 120 during the first two weeks of  
July  
21 and 110 the third week of July; is that right?  
22 A. Correct.  
23 Q. So there have been just slight  
modifications  
24 in the total number of points each week?  
25 A. Yes.  
26 Q. What was the reason for those changes?  
27 A. I cannot answer that.  
28 Q. You don't know?

91

1 A. No.  
2 Q. There's a comment under the March --  
3 beginning under the March time for radio that says,  
4 "Bonus weight expected - 20 percent of paid spots."  
5 What does that mean?

6           A.     With some vendors, depending on the  
amount of  
7     media purchased, they will give you an additional  
month  
8     or so of bonus time where the client is not paying  
for  
9     the aired spots. They are basically free.  
10        Q.     Is the bonus time reflected elsewhere on  
this  
11    Revision 5?  
12        A.     It's not reflected. And to my  
13    understanding -- Anthony Welch would have to  
clarify  
14    this. But from what I understand, when media is  
15    canceled, the media company is not obligated to  
tell you  
16    specifically when the bonus time will occur. They  
will  
17    do their best to get it in, but they cannot give  
you a  
18    specific date as in the prior -- the prior plan, I  
19    think, in Revision 3, the bonus weight was to come  
at  
20    the end of the year.  
21        Q.     So is there a bonus time that has been  
22    acquired for calendar year 2000 assuming this plan  
23    remains in effect?  
24        A.     Yes.  
25        Q.     Will run at sometime during the year?  
26        A.     Yes. To my understanding, yes.  
27        Q.     Will it run during the months for which  
time  
28    is committed as shown -- for which radio time is  
  
92  
1    committed as shown at the top of the Revision 5?  
2        A.     I don't know if it will run during this  
time  
3    or if it will run during dead air space later on in  
the  
4    year. I don't know.  
5        Q.     Then -- and by "dead air space later on  
in  
6    the year," you mean the period of time after the  
7    beginning of October when no buys are presently  
8    contemplated; correct?  
9        A.     Yes.  
10       Q.     Can you explain what the Out-of-Home  
category  
11    refers to in the left-hand column?  
12       A.     Yes. In Out-of-Home, we have 30 sheets  
which  
13    are outdoor bulletin boards that you see. And a 30  
14    sheet is one of the larger transit boards that you  
see.  
15    And then also a wallscape is basically either a  
building  
16    that is either painted or a canvas -- a vinyl  
canvas is  
17    put up on the side of the building.  
18       Q.     So 30 sheets are billboards basically?  
19       A.     Yes.  
20       Q.     And wallscapes are?

21 A. Either painted or vinyl sides of  
buildings.  
22 Q. And bus kings?  
23 A. Bus kings are the elongated  
advertisements  
24 that you see on the side of a bus.  
25 Q. And newspaper is?  
26 A. That would refer to African American  
27 newspapers in California.  
28 Q. And that 3 column by 10.5 means what?

93  
1 A. That's the size of the ad that will be  
2 placed.  
3 Q. So that's --  
4 A. So it goes over three columns, and the  
length  
5 is ten and a half inches.  
6 Q. So that's a quarter page ad?  
7 A. A little larger.  
8 Q. Were any revisions shown -- Are there  
any  
9 changes on Revision 5 to the media plan shown on  
10 Revision 3 with respect to Out-of-Home? Let's take  
it  
11 with regard to 30 sheets first.  
12 A. No. With 30 sheets, it's the same  
because we  
13 were not able to cancel any 30 sheets that were  
14 purchased.  
15 Q. Were there any changes with regard to  
16 wallscapes?  
17 A. No. It's the same. We were not able to  
18 cancel any of the wallscape media.  
19 Q. Were there any changes with regard to  
bus  
20 kings?  
21 A. Bus kings. We were able to move the  
first --  
22 it's not reflected on the chart because we don't --  
it's  
23 the same as the radio. We were able to move the  
first  
24 flight of the bus kings back, but it's up to the  
outdoor  
25 company to place those bus kings when they can.  
And  
26 that's just for that first flight that was to occur  
in  
27 March.  
28 Q. And were there any changes with regard  
to

94  
1 newspaper?  
2 A. We lost one insertion in -- I think it's  
3 December. Yes. If you look under December 4th,  
the  
4 week of December 4th, on Revision 3 it's there; on  
5 Revision 5 it was canceled.  
6 Q. Did that result in any savings?  
7 A. Yes, slightly.  
8 Q. Taking a look at the numbers in the

9 right-hand column on Exhibit 268, for newspaper  
they  
10 appear to be -- can you read those numbers?  
11 A. Yes.  
12 Q. They appear to be the same as on  
Revision --  
13 A. It appears to be the same.  
14 Q. -- as on Revision 3; is that right?  
15 A. Yes.  
16 Q. So there's been no savings at least that  
is  
17 shown on Revision 5 for newspaper?  
18 A. According to this, correct.  
19 Q. Was the December time that you mentioned  
was  
20 lost replaced at some other time during the year?  
21 A. I don't know.  
22 Q. I see that Revision 5 -- I'm sorry.  
23 Exhibit 268, which pertains to Revision  
5,  
24 was a fax with the date April 28, 2000 at the top.  
Do  
25 you see that?  
26 A. Yes.  
27 Q. Is this a fax you received from the  
28 Department of Health Services Tobacco Control  
section,  
95  
1 or is it a fax that was sent to them?  
2 A. It was -- I'm not sure.  
3 Q. You see it's page 2 of 15?  
4 A. Right.  
5 Q. Do you have a recollection of what the  
6 remainder of the fax consists of?  
7 A. This was a fax from the clients. And  
the  
8 other pages were production and media -- revised  
9 production and media estimates that the client had  
10 signed off on.  
11 Q. Were those production and media estimate  
--  
12 Were the media estimates the clients signed off on  
13 consistent with the numbers shown on Revision 5?  
14 A. Yes.  
15 Q. So would it be fair to say that the  
client,  
16 that is, the California Department of Health  
Services,  
17 has authorized a total media spending of \$663,276  
for  
18 the 2000 Media Plan at Carol H. Williams Agency?  
19 A. Yes.  
20 MR. LERNER: Off the record.  
21 (Recess taken from 3:37 to 3:40 p.m.)  
22 (Whereupon, Defendant's Exhibit 268A  
23 was marked for identification.)  
24 MR. LERNER: Q. Ms. Streets, you've  
brought  
25 us a clean -- a better reproduction of Revision 5,  
which  
26 we've marked as Exhibit 268A; is that correct?  
27 A. Yes.

28 Q. And this shows that the budget for May 1  
96  
1 through December 31, 2000 is a total of \$660,000;  
is  
2 that right?  
3 A. Yes.  
4 Q. And therefore, the total spending  
5 contemplated for media for the year 2000 is \$3,276  
over  
6 the budget?  
7 A. Correct.  
8 Q. And then the total media spending for  
the  
9 year 2000 would consist of the amount shown on the  
flow  
10 chart of \$663,276 budgeted for the year 2000, plus  
11 January to April spending of \$114,714 funded from  
the  
12 1999 budget?  
13 A. Correct.  
14 Q. So the total is approximately \$775,000?  
15 A. Yes.  
16 Q. Do you happen to know the reason that  
there  
17 have been budget cuts in media spending as you  
described  
18 them?  
19 A. No. When the account was turned over to  
me,  
20 I was told that there was a budget cut. But  
whatever  
21 the explanation was that was given, I wasn't on the  
22 account at the time.  
23 Q. And who was on the account at the time?  
24 (Sotto voce discussion between the  
witness  
25 and counsel)  
26 (Whereupon, Defendant's Exhibit 269  
27 was marked for identification.)  
28 THE WITNESS: Let me rephrase that.

97  
1 In the status meeting that I had  
mentioned, I  
2 think, that was on the 28th of March, the client  
had  
3 mentioned that -- and everybody with the exception  
of  
4 myself knew what was going on in terms of the  
budget.  
5 And from what was stated is that although there was  
a  
6 budget for 2000, it was never officially approved.  
I  
7 don't know who was to approve it, but that's why  
the  
8 budgets were changed.  
9 MR. LERNER: Q. Take a look at Exhibit  
269,  
10 which appears to be an e-mail from Alison Melody of  
11 Asher & Partners to lwills and ncech at Carol H.  
12 Williams advertising, Subject: CDHS Budget. Have

you  
13 seen this e-mail before?  
14 A. No.  
15 Q. The first sentence in this e-mail  
states,  
16 "The overall budget, including production and  
media,  
17 for each of the three years 2000 to 2002 is  
\$800,000,"  
18 and there's a handwritten line that's circled  
around or  
19 through the 800,000. Do you see that?  
20 A. Yes.  
21 Q. Is that consistent with your  
understanding as  
22 to what the California Department of Health  
Services  
23 budget for advertise -- production and media of  
Carol H.  
24 Williams will be for the years 2000 to 2002?  
25 A. Well, I'd have to reiterate the fact  
that  
26 when I came on the -- when the account was given to  
me,  
27 I knew there was a budget cut, but I wasn't aware  
of  
28 what the original budget was. So I can't tell you  
if  
  
98  
1 this 800,000 was what was the original budget or  
not.  
2 Q. Do you have any understanding as to what  
the  
3 budget for Carol H. Williams Agency was under the  
4 California Department of Health Services account in  
5 calendar year 1999?  
6 A. No.  
7 Q. And do you have any understanding as to  
what  
8 the budget was in any years prior to that?  
9 A. No.  
10 Q. Let me turn back to Exhibit 267.  
11 A. I'm sorry. Which document?  
12 Q. 267, please.  
13 Have you seen the e-mail which is the  
top  
14 page of Exhibit 267 before?  
15 A. Yes.  
16 Q. How did you happen to come to see this  
17 e-mail?  
18 A. Someone at Asher -- When it was  
determined  
19 that our budgets would have to be revised, someone  
at  
20 Asher had asked us to communicate to the client  
what  
21 media we would be able to cancel and what we were  
22 committed to. And I can't remember who I talked  
to, but  
23 we were asked to send the client an e-mail  
following the  
24 format of this e-mail.



25 Q. Do you recognize this handwriting on the  
 26 page?  
 27 A. Yes. It's mine.  
 28 Q. Does this e-mail -- Did you have  
  
 99  
 1 conversations with Colleen Stevens concerning the  
 2 subject of this e-mail?  
 3 A. With the first e-mail?  
 4 Q. Yes.  
 5 A. No.  
 6 Q. Did you recognize the second page of  
 this  
 7 document?  
 8 A. Yes.  
 9 Q. Can you identify it, please?  
 10 A. This is a document that I put together  
 with  
 11 the assistance of Anthony Welch following the Asher  
 12 format regarding what media we were able to cancel  
 and  
 13 what we could not cancel.  
 14 Q. When did you prepare this page, this  
 15 document?  
 16 A. I believe it was March 15th.  
 17 Q. I see on the third page there's a date.  
 It  
 18 appears to be an e-mail from you to Colleen Stevens  
 19 dated March 16, 2000; is that correct?  
 20 A. Correct.  
 21 Q. So you were working on the account in  
 March?  
 22 A. I just realized that, yes.  
 23 Q. Earlier, you said that you were assigned  
 to  
 24 work on it beginning in April?  
 25 A. Yes.  
 26 Q. Does this refresh your recollection that  
 you  
 27 were assigned to work on this California Department  
 of  
 28 Health Services account before April 2000?  
  
 100  
 1 A. Yes.  
 2 Q. So what date do you now believe that you  
 3 began working on this account?  
 4 A. I don't know the exact date, but it was  
 5 obviously in March.  
 6 Q. And on March 16th, 2000, were you the  
 account  
 7 executive for the California Department of Health  
 8 Services?  
 9 A. Yes.  
 10 Q. Were you reporting to Ms. Holman during  
 March  
 11 2000?  
 12 A. Yes.  
 13 Q. Did she have any role in the issues  
 described  
 14 in your e-mail dated March 16, 2000 to Colleen  
 Stevens?  
 15 A. No.

16 Q. You mentioned that Shirley Priestley  
worked 17 on the account for about a month before you did?  
18 A. As far as I understand, yes.  
19 Q. And was she working on the account at  
the 20 same time you were?  
21 A. There was a slight overlap during the  
22 transitional period. Roughly a week.  
23 Q. And that week occurred during March  
2000?  
24 A. Yes.  
25 Q. I guess pages CHW 5556 and 5557 are  
26 identical. I just wanted to ask you about the  
sentence 27 that begins at the bottom of the page 5557 and  
carries 28 over to the top of the page 5558.

101  
1 A. Yes.  
2 Q. It reads, "To reiterate a point that  
Anthony 3 Welch brought up, any outdoor we cancel we will not  
be 4 able to get back because the California market is  
sold 5 out through the rest of the year. If we sell radio  
and 6 try to get it back, costs will more than likely  
double, 7 if it's available."  
8 And by the sentence referring to  
outdoor, 9 does that mean that once you cancel an outdoor  
under 10 current market conditions you can't get the time  
back 11 because there's somebody waiting to take your  
place?  
12 A. Yes.  
13 Q. And with regard to radio, the sentence  
14 pertaining to radio, does that mean that the  
current 15 market conditions are that time that's already been  
16 purchased cannot be bought back at the same price  
again?  
17 A. Correct.  
18 Q. And if time were canceled and had to be  
19 bought back, the costs would be double? Is that  
what 20 the current market conditions are?  
21 A. Roughly. It's what's called a bump  
rate. 22 And those -- that bump rate can vary per market and  
23 because of the market conditions. But Anthony felt  
that 24 it would be at least double.  
25 Q. And is that because the advertising will  
need 26 to be reclaimed for dates that are very close ahead  
27 rather than purchasing far in advance?  
28 A. That I don't know. It could be a

combination

102

1 of both.  
2 Q. At least as of the point in time that  
you  
3 wrote the e-mail, it was going to be more expensive  
to  
4 cancel time and then try to recover it later?  
5 A. Yes.  
6 Q. There's a reference to grassroots. What  
does  
7 grassroots mean?  
8 A. Usually what it means is -- I have to  
say  
9 that whatever effort was going on for CDHS, I don't  
know  
10 what it was. But usually grassroots -- a  
grassroots  
11 effort means when you produce materials to  
distribute to  
12 a consumer on a one-to-one level, like either  
producing  
13 a flier or putting up a poster in a barber shop or  
14 something like that where you're actually in the  
15 community working directly with the consumer. But  
as I  
16 said, in terms of this California Department of  
Health  
17 Services grassroots effort, I don't know what that  
was.  
18 And based on the media plan, it was canceled  
anyway.  
19 Q. Now, was Exhibit 268A, which is Revision  
5 of  
20 the media plan, approved by the Department of  
Health  
21 Services after your e-mail of March 16, 2000 to  
Colleen  
22 Stevens?  
23 A. Yes.  
24 Q. And I notice on Exhibit 268A there's a  
25 handwritten notation on bus king/sides for  
Sacramento.  
26 It says No. 25 and a line. Is that your  
handwriting?  
27 A. No.  
28 Q. Do you know whose handwriting it is?

103

1 A. I believe it's Anthony Welch's.  
2 Q. Do you know what that represents?  
3 A. I am assuming -- As I stated earlier, we  
were  
4 able to move back the first posting of the bus  
kings.  
5 But the vendor is not obligated to tell us exactly  
when  
6 those postings will occur. So I think that  
notation is  
7 based on a conversation that Anthony probably had  
with  
8 the vendor in terms of when they thought they would

be  
9 able to post those bus kings. But I can't be sure.  
10 Q. So your understanding is that there was  
going  
11 to be a period of time when bus kings were going to  
be  
12 used in Sacramento that was going to run at least  
in the  
13 period of time for approximately 8 weeks? That's  
not  
14 reflected on Exhibit 268 but is shown in  
handwriting on  
15 268A.

16 A. That's not totally accurate. I think  
that --  
17 Are you referring to the handwritten notation?  
18 Q. Yes.  
19 A. I think that's just to show that during  
some  
20 point between the week of May 1st and the week of  
June  
21 26th, that the posting that we were not able to  
meet in  
22 terms of the deadline will occur somewhere within  
that  
23 time frame.

24 Q. Have you ever seen written approval for  
25 Revision 5 from the California Department of Health  
26 Services?

27 A. Yes.  
28 Q. In the form of estimates -- media  
estimates

104  
1 of the client time, were those media estimates the  
ones  
2 that were included in the April 28, 2000 fax from  
the  
3 Department of Health Services that you described  
4 earlier?

5 A. Yes.  
6 Q. 268A is a hard copy of Revision 5 from  
your  
7 file, whereas Exhibit 268 is a copy of the fax that  
was  
8 returned with the approvals from the California  
9 Department of Health Services; is that right?

10 A. Correct.  
11 MR. LERNER: Let's go off the record.  
12 (Discussion off the record)  
13 MR. LERNER: It's now approximately 4:00  
14 p.m., and we have not concluded the deposition.

And  
15 pursuant to discussions among counsel, we have  
decided  
16 to resume the deposition at a mutually agreeable  
date  
17 after we've done further review of the documents.  
18 Is that correct, counsel?  
19 MR. ZEMBSCH: That's our discussion,  
20 certainly, yes. And that's a correct description  
of our  
21 discussion.

22 MR. LERNER: Okay. Thank you.  
23 MR. ZEMBSCH: We will not be requesting

a  
24 copy of the transcript from the court reporter.  
25 (Whereupon, the deposition was  
26 adjourned at 4:00 p.m.)  
27 --oOo--  
28

105  
the 1 I declare under penalty of perjury that  
2 foregoing is true and correct. Subscribed at  
3 \_\_\_\_\_, California, this\_\_\_\_ day  
of \_\_\_\_\_,  
4 2000.  
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10 HEATHER M. STREETS  
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1 CERTIFICATE OF REPORTER  
2  
3 I, CLARE MACY, a Certified Shorthand  
4 Reporter, hereby certify that the witness in the  
5 foregoing deposition was by me duly sworn to tell  
the 6 truth, the whole truth and nothing but the truth in  
the 7 within-entitled cause;  
8 That said deposition was taken down in  
9 shorthand by me, a disinterested person, at the  
time and 10 place therein stated, and that the testimony of the  
said 11 witness was thereafter reduced to typewriting, by  
12 computer, under my direction and supervision;  
13 I further certify that I am not of  
counsel or 14 attorney for either or any of the parties to the  
said

of 15 deposition, nor in any way interested in the event  
16 this cause, and that I am not related to any of the  
17 parties thereto.  
18

19 DATED: \_\_\_\_\_, 2000.  
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CLARE MACY, CSR 5256

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